



COMMONWEALTH PARLIAMENTARY ASSOCIATION

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Fifth Canadian Regional Seminar

Toronto

October 15-19, 1979

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Commonwealth Parliamentary Association

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PUBLISHED BY THE CANADIAN REGION
OF THE COMMONWEALTH PARLIAMENTARY ASSOCIATION

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Sunday, October 14, 1979

7:30 p.m. Welcoming reception
Plaza Room, Park Plaza Hotel

Monday, October 15—Amethyst Room (151)—Legislative Assembly

10:00 a.m. Welcome—Honourable John E. Stokes, M.P.P.,
Speaker of the Legislative Assembly of Ontario

10:15 a.m. “Getting the most out of Committee Work”
Mr. George Cunningham, M.P.
House of Commons—United Kingdom

Chairman: Honourable Robert Welch, Q.C., M.P.P.
Deputy Premier of Ontario and Minister of Energy

12:00 noon Informal reception and lunch
Members' Lounge, North Wing

1:50 p.m. Question Period
Speaker's Gallery—Legislative Assembly (3rd Floor)

3:15 p.m. “Committees for the Redress of Grievances”
Opening Speaker—Maître Claude Vaillancourt, M.N.A.,
Vice-President of the National Assembly of Quebec

Chairman: Mr. Patrick Lawlor, Q.C., M.P.P., Chairman
of the Ontario Legislature's Select Committee on the Ombudsman

6:30 p.m. Reception
Amethyst Room (151)—Legislative Assembly

7:15 p.m. —Members' Dining Room
Dinner hosted by the Honourable John E. Stokes, M.P.P.,
Speaker of the Legislative Assembly of Ontario

Guest Speaker: Honourable Herr Dietrich Stobbe,
President of the Bundesrat of the Federal Republic of Germany
and Governing Mayor of Berlin

Topic—“Federalism in Germany”

Tuesday, October 16—Amethyst Room (151)—Legislative Assembly

10:00 a.m. “Parliamentary Committees and the Executive”
—The Other Side of the Coin
Honourable Richard Hatfield, M.L.A.,
Premier of New Brunswick

Chairman: Mr. Robert F. Nixon, M.P.P.

12:15 p.m. Informal luncheon
Empress Room, Park Plaza Hotel

2:00 p.m. Question Period or free time

3:00 p.m. "Committee Changes in the United Kingdom"
Mr. Kenneth Baker, M.P., House of Commons, United Kingdom
Chairman: Dr. Mark MacGuigan, M.P., House of Commons

4:30 p.m. "Financial Committees of the United States Congress"
Dr. Walter Kravitz, Senior Specialist,
Library of Congress Research Service, Washington
Chairman: Honourable John Brockelbank, M.L.A.,
Speaker of the Legislative Assembly of Saskatchewan

6:00 p.m. Informal dinner
Members' Dining Room

8:15 p.m. "The Community and Committees"
Mr. Hugh Peacock, Legislative Representative,
Ontario Federation of Labour
Chairman: Senator the Honourable Duff Roblin, P.C. Q.C.

Wednesday, October 17—Legislative Chamber

9:30 a.m. "Parliament and the Tax Payers' Dollars"
Mr. David Peterson, M.P.P.—"The Lambert Report as seen
by a politician"

Mr. J.J. Macdonell, F.C.A.—Auditor General of Canada
"Recent Public Accounts Developments"

Chairman: Mr. T. Patrick Reid, M.P.P., Chairman of the
Ontario Public Accounts Committee

12:00 noon Amethyst Room (151)—Legislative Assembly

12:15 p.m. Audio-Visual presentation
on Government Expenditures

12:45 p.m. Free

Thursday, October 18—Amethyst Room (151)—Legislative Assembly

9:30 a.m. "Possible Reforms of the Committees of the Parliament
of Canada"
Mr. Benno Friesen, M.P., House of Commons

Chairman: Honourable Harvey Wilfred Schroeder, M.L.A.,
Speaker of the Legislative Assembly of British Columbia

12:00 noon Reception in honour of delegates to the Fifth Canadian Regional Seminar of CPA, given by the Honourable Pauline M. McGibbon, Q.C., Lieutenant Governor of Ontario
Lieutenant Governor's Suite—Second Floor,
West Wing, Legislative Assembly

3:00 p.m. "The Techniques of Specialist Committees"

Mr. Donald MacDonald, M.P.P.,
Chairman of the Ontario Select Committee on Ontario Hydro Affairs

Mr. Peter Dobell
Director, Parliamentary Centre for Foreign Affairs and
Foreign Trade, Ottawa

Mr. Alan Schwartz
Counsel to the Select Committee on Ontario Hydro Affairs

Chairman: Mr. John MacBeth, Q.C., M.P.P., Deputy Chairman
of the Committees of the Whole House, Legislative Assembly
of Ontario

Friday, October 19—Amethyst Room (151)—Legislative Assembly

11:00 a.m. Statutory Instruments

"The Need for Scrutiny of Statutory Instruments"
Mr. Robert Andrew, M.L.A.—Saskatchewan

"Methods of Examination of Statutory Instruments"
Mr. Lachlan R. (Duke) MacTavish, Q.C., Counsel to the
Ontario Statutory Instruments Committee

Chairman: Mr. Michael Braugh, M.P.P.
Chairman Ontario Procedural Affairs Committee

12:00 noon Ontario Place—Farewell luncheon

Guest Speaker: Dr. James Boren, author of
When in Doubt Mumble, President of the International
Association of Professional Bureaucrats.

Topic—"Boren Format for Committifying Parliamentary
Polarity (Bo Fo Fo Co Pa Po)"

SEMINAR PARTICIPANTS

Legislative Assembly of Alberta

Mr. Dennis ANDERSON, M.L.A.

Dr. David CARTER, M.L.A.

Mr. Mickey CLARK, M.L.A.

Mr. Douglas BLAIN

Clerk Assistant

National Assembly of Belize

Mr. Alexander MONSANTO

Clerk of the National Assembly

Legislative Assembly of British Columbia

Hon. Harvey W. SCHROEDER, M.L.A.

Speaker of the Legislative Assembly

Mr. Ian HORNE, Q.C.

Clerk of the Legislative Assembly

Mr. Ian D. IZARD,

Clerk Assistant of the Legislative Assembly

Federal Parliament

The Senate:

Hon. Renaude LAPOINTE

Hon. Duff ROBLIN, P.C., Q.C.

House of Commons:

Mr. Joseph-Roland COMTOIS, M.P.
Mr. John ELLIS, M.P.
Dr. Maurice FOSTER, M.P. Chairman
Canadian Branch, C.P.A.
Mr. Benno FRIESEN, M.P.
Mr. Jean-Robert GAUTHIER, M.P.
Dr. Mark MacGUIGAN, M.P.

Officials and Participating Staff:

Mr. J.J. MACDONELL, F.C.A.
Auditor General of Canada
Mr. Peter DOBELL, Director
Parliamentary Centre for
Foreign Affairs and Foreign Trade
Mr. Ian IMRIE, Secretary-General
Parliamentary Relations Secretariat
Parliament of Canada
Mr. Philip LAUNDY, Director, Research Branch
Library of Parliament
Mrs. Jacqueline LUSKEY, Editor, Canadian Regional Review
Parliamentary Relations Secretariat
Mr. Hugh STEWART, Committee Clerk
Committee Branch of the House of Commons

Interpretation:

Mr. R. ROBICHAUD, Head of Simultaneous Interpretation
Division, House of Commons
Mr. J. GOURDEAU, House of Commons
Ms. Beatrice de MOUTMOLLIN, House of Commons

Parliament of the Federal Republic of Germany

Hon. Herr Dietrich STOBBE
President of the Bundesrat and
Governing Mayor of Berlin

Parliament of Ghana**Hon. C.C. FITIH**

Majority Government Leader

Hon. Kwaku BAAH,

Opposition House Leader

Hon. Peter A. ADJETEY**Hon. Prince William ANDANI****Hon. Mrs. Elizabeth KUSI-AIDOO****Hon. Dr. E.N. TACKIE-OTOO****Parliament of Jamaica****Rev. Roy ROBINSON, M.P.**

Deputy Speaker of the House of Representatives

Legislative Assembly of Manitoba**Hon. Harry GRAHAM, M.L.A.**

Speaker of the Legislative Assembly

Mr. Saul CHERNIAK, M.L.A.**Mr. Abe KOVNATS, M.L.A.****Legislative Assembly of New Brunswick****Hon. Richard HATFIELD, M.L.A.**

Premier of New Brunswick

Mr. Douglas MOORE, M.L.A.

Deputy Speaker of the Legislative Assembly

Mr. Fred ROUSSEL, M.L.A.**Mr. Harold BROWN**

Clerk Assistant of the Legislative Assembly

House of Assembly of Newfoundland

Hon. Len SIMMS, M.H.A.
Speaker of the House of Assembly
Mr. Ronald DAWE, M.H.A.
Mr. Edward M. ROBERTS, M.H.A.
Miss Bettie DUFF
Clerk of the House of Assembly

House of Assembly of Nova Scotia

Mr. Greg KERR, J.L.A.
Government Caucus Chairman
Mr. Joe CASEY, M.L.A.
Mr. John LEEFE, M.L.A.
Dr. Henry F. MUGGAH, Q.C.
Chief Clerk of the House of Assembly

Legislative Assembly of Ontario

Host of the Seminar:
Hon. John E. STOKES, M.P.P.
Speaker of the Legislative Assembly

Hon. Robert WELCH, Q.C., M.P.P.
Deputy Premier of Ontario and Minister of Energy
Mr. Hugh EDIGHOFFER, M.P.P.
Deputy Speaker of the Legislative Assembly
Mr. Michael BREAUGH, M.P.P.
Chairman of the Procedural Affairs Committee
Mr. Monty DAVIDSON, M.P.P.
Mr. Patrick LAWLOR, Q.C., M.P.P.
Chairman of the Select Committee on the Ombudsman
Mr. John MacBETH, Q.C., M.P.P.
Deputy Chairman
Committees of the Whole House

Mr. Donald MacDONALD, M.P.P.
Chairman of the Select Committee on
Ontario Hydro Affairs
Mr. Robert F. NIXON, M.P.P.
Opposition House Leader
Mr. T. Patrick REID, M.P.P.
Chairman of the Public Accounts Committee
Mr. David ROTENBERG, M.P.P.

Officials and Participating Staff:

Mr. Lachlan R. (Duke) MacTAVISH, Q.C.
Counsel to the Statutory Instruments Committee
Mr. Hugh PEACOCK, Legislative Representative
Ontario Federation of Labour, Former M.P.P.
Mr. Alan SCHWARTZ, Counsel to the Select Committee on
Ontario Hydro Affairs

Legislative Assembly of Prince Edward Island

Hon. Dan COMPTON, M.L.A.
Speaker of the Legislative Assembly
Mr. Bennett CAMPBELL, M.L.A.
Leader of the Opposition
Mr. Peter POPE, M.L.A.

National Assembly of Quebec

Maître Claude VAILLANCOURT, M.N.A.
Vice President of the National Assembly
M. Claude FORGET, M.N.A.
M. Marc CANTIN, Director of Committees Services
National Assembly
M. Paul TROTIER
Interparliamentary Relations Branch
National Assembly

Legislative Assembly of Saskatchewan

Hon. John E. BROCKELBANK, M.L.A.

Speaker of the Legislative Assembly

Mr. Robert ANDREW, M.L.A.

Mr. Dennis BANDA, M.L.A.

Mr. Gordon BARNHART

Clerk of the Legislative Assembly

Mrs. Gwenn RONYK

First Assistant Clerk of the Legislative Assembly

Parliament of St. Kitts—Nevis—Anguilla

Hon. Ada May Panepa EDWARDS, M.B.E.

Speaker of the House of Assembly

Mr. Henry L. BROWNE

Clerk of the House of Assembly

Parliament of Trinidad and Tobago

Mr. Felix BELAMY, M.P.

House of Commons, United Kingdom

Mr. Kenneth BAKER, M.P.

Mr. George CUNNINGHAM, M.P.

Mr. Donald LIMON

Clerk of the Services Committee and

Secretary to the House of Commons Commission

United States of America

Dr. Walter KRAVITZ

Senior Specialist

Congressional Research Service

Library of Congress, Washington

Dr. James BOREN

President of the International Association

of Professional Bureaucrats

MONDAY, OCTOBER 15, 1979 - MORNING SESSION

Chairman:

Hon. Robert WELCH, Q.C., M.P.P.
Deputy Premier of Ontario,
Minister of Energy

Introductory remarks:

Hon. John. E. STOKES, M.P.P.,
Speaker of the Legislative Assembly of Ontario

Subject:

Getting the most out of committee work

Main presentation:

Mr. George CUNNINGHAM, M.P.,
House of Commons
United Kingdom

Participants:

Mr. Kenneth BAKER, M.P.,
House of Commons
United Kingdom

Mr. Felix BELAMY, M.P.,
Trinidad and Tobago

Mr. Bennett CAMPBELL, M.L.A.,
Leader of the Opposition,
Legislative Assembly
Prince Edward Island

Mr. Joseph-Roland COMTOIS, M.P.,
House of Commons
Ottawa

Mr. John ELLIS, M.P.,
House of Commons
Ottawa

Mr. Claude FORGET, M.N.A.
National Assembly
Quebec

Dr. Walter KRAVITZ,
Senior Specialist,
Congressional Research Service,
Library of Congress, U.S.A.

Mr. Donald LIMON,
Clerk of the Services Committee
and Secretary to the House of Commons
Commission
United Kingdom

Dr. Mark MacGUIGAN, M.P.,
House of Commons
Ottawa

Hon. E.N. TACKIE-OTOO,
Leader of ACP, Ghana

Monday, October 15, 1979

Morning Session

—Summary—

Getting the most out of Committee Work

A principal theme of Mr. Cunningham's presentation was the need for Members of Parliament, particularly Government backbenchers, to be willing on occasion to stand up against their party. All Parliaments, he suggested, share a common problem: how the elected representatives, who are of course amateurs, can be organized so as to influence the complex activities of modern government. In Mr. Cunningham's view, the qualities MPs must bring to their decision-taking are common sense and, above all, responsiveness to the electorate. The contrast was drawn between the independence of the American Congressman and the Member of Parliament, whose aspirations for ministerial office sharply reduce his independence.

Mr. Cunningham then discussed, principally in the British context, the advantages of "functional" committees (for example, estimates) as opposed to committees defined in terms of subject matter (e.g. agriculture). In the end, his choice was for specialized, subject committees not only because they accommodate the natural specialization of Members but because they make particular members more responsible than other for actual decisions, so that if things go awry, it is possible to determine who is to blame.

Other topics raised by Mr. Cunningham included the boundary between the power of the Committee and the prerogatives of the whole House, and the proper balance of committee staffing. The Americans have too many staff, he contended, and the British too few; staff should assist the Member, but not do his job for him.

Discussion focused primarily on constraints on a Member's independence from party influence, the extent to which committees are simply extension of partisan posturing in the full House, and the possibility of adapting Mr. Cunningham's approach to committees in Canadian legislatures.

COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
MONDAY, OCTOBER 15, 1979

[Text]

The seminar opened at 10 a.m. in room 151.

Hon. John E. Stokes: Parliamentary colleagues, it is a pleasure for me to greet you on the occasion of the Fifth Canadian Regional Seminar held under the auspices of the Commonwealth Parliamentary Association. The theme for the seminar this year is "Committees", a subject Speakers seldom have to deal with, so I will not speak at any great length.

There are three communications I want to convey to you immediately because of their importance. The first is addressed to me as Speaker and says:

Best wishes on the occasion, of the Fifth Canadian Regional Seminar. This important CPA activity will add to the links which make our organization a vital one for the furtherance of parliamentary government. I know the seminar will be a success.

It is signed by the Honourable John R. Harrison, President of CPA and Speaker of the House of Representatives of New Zealand.

The next is addressed to me as Speaker and says:

On behalf of the officers and members of the CPA, I send you our earnest good wishes for a highly successful seminar. Meetings for the in depth study of the practical problems facing parliaments throughout the Commonwealth are of the highest importance in the activities of the Association. I am confident that the Ontario Branch seminar will make a major contribution.

That is signed by Robin Vanderfelt, Secretary general, CPA.

The final one is from Ottawa, stating:

Very best wishes from all your CPA colleagues in the Ottawa branch for the success of the Fifth Canadian Regional Parliamentary Seminar. Wish I could be with you.

Signed: James Jerome, Speaker.

I am particularly pleased, and we are flattered, to have with us delegations from the Caribbean Region of CPA and six members of the Parliament of Ghana. We will be getting to know one another during the course of the week and we will have an opportunity to chat informally, but I want both delegations to know how very much we have been looking forward to their visit. We hope the week's proceedings will be interesting and useful and that we will make many new friends.

The visit of the delegation from Ghana marks the first major project of the CPA Working Capital Fund. This fund was established last year with the sole aim of promoting parliamentary government. We hope your presence here will assist us in the renewal of your Parliament in Ghana. We tend to take the institution for granted, but your presence here demonstrates to all how very much we should treasure the parliamentary form of government.

I am also pleased that the seminar coincides with the visit to Canada of Herr Dietrich Stobbe, who is here this morning. We welcome you to this House and are very much looking forward to your remarks this evening. Your visit to this country reminds us of the vitality of the German Federation and I know all members here will be looking forward to chatting with you this evening.

The arrangements for the seminar are as informal and as friendly as possible. I hope no one will take offence if they are too informal, but we felt those who have assembled have done so with a serious interest and intent in the subject, and through this common interest we can proceed in a friendly Canadian fashion. If there are any requests for services, you need only speak to any member of the House staff and they will

do their best to accommodate you. I am looking forward to this week and welcome you to the capital of Ontario.

The chairman for the first session is the Honourable Robert Welch, who has just relinquished the task of government House leader to become the Minister of Energy. He is, as well, the Deputy Premier of Ontario, so we are flattered that he was able to find the time to preside this morning.

Mr. Welch has been a member of this House since 1963 and has held numerous senior portfolios. More important than that, he is great supporter of the activities of the Commonwealth Parliamentary Association in this branch. I invite him now to take the chair for this first session.

The Chairman: Thank you very much, Mr. Speaker, and ladies and gentlemen. To follow the lead of the Speaker, to make sure we don't get too formal, may I quickly get to the task at hand which is to introduce our theme speaker for this first session, following which I hope we will engage in some discussion with respect to the matters to which he makes reference.

I want to indicate how pleased I am that Dr. White and those associated with him have put together such excellent background material. I know we will find all of this quite helpful.

Our speaker is George Cunningham, who sits in the British House of Commons for "Islington South and Finsbury". He was first elected to the House of Commons in 1970 and has served continuously since that time.

As many of you know, Mr. Cunningham has been a member of the staff of the Commonwealth Relations Office and was the Second Secretary in the British High Commission in Ottawa from 1958 to 1960, so he really comes as no stranger to this country.

Of particular interest to us, as part of the seminar today, is the fact that he is a member of the procedure committee of the House of Commons. Many of us have read with a great deal of interest the results of the work of that particular committee and its recommendations. It is obvious Mr. Cunningham understands the rules because he has been quite skilful in using them to great advantage, particularly with some amendments which were being discussed at the time of the Scottish devolution bill. In fact, some of us were having dinner with him in London when bells were ringing as some of these amendments were being put, so we were first-hand spectators to watch his parliamentary skill at the particular time.

So that we understand the procedure, we will ask Mr. Cunningham to come and share his views with us related to the topic of "Getting the Most Out of Committee Work", following which we will share with him what we think of what he has said, or perhaps even suggest things he should have said—which almost sounds like the Anglican confessional: those things which we ought to have done and haven't done, or vice versa.

Would you please greet Mr. George Cunningham, Member of Parliament.

Mr. Cunningham: Mr. Chairman, Mr. Speaker, presidents and colleagues, may I say first it is a great pleasure, of course, to visit Canada at any time. When I was based here some many years ago now, I once said to a Canadian that my ideal of life would be to have an Anglo-Canadian life. The Canadian I was speaking to said, "Ah, you want to settle down in Victoria, British Columbia." With respect to the British Columbia representatives here, that wasn't what I had in mind. I had in mind spending a lot of time in Britain and a lot of time in Canada. In line with that ambition, it is always a pleasure to come back.

It is, of course, something of an insolence for one parliamentarian from one country to talk to others implying that he has something to offer, not only about how things should be done in his own country, but also about how they might be done in other countries. That task must always be approached with great caution.

It is impossible to take the methods of one parliament and simply import them into another, as we all know. You cannot adopt the solutions that others have found. There are basic constitutional difficulties that impede that process even within the family of parliaments which have their base in Westminster. Obviously, as between Britain and Canada the big difference is the constitutional difference of federation.

There are differences of size, both of the country and of the legislature. Clearly what is appropriate in a legislature of a norm of about 60, perhaps, in many Canadian provinces, is not the sort of thing that might work in London in a parliament of 635 and counting.

Despite the differences of constitutions, of habits, of size and so on, surely we all recognize that parliaments throughout the world, or at least free parliaments throughout the world, do face common problems and almost, you could say, a common problem. That problem can be expressed this way: It is how you can take the elected representatives of the people, who are necessarily amateurs and not experts, and somehow organize things so that they are able to control and scrutinize the activities of modern government which are so vast and so complex. That is the problem we all in common face.

The trend away from the power of the legislature to the power of the executive is manifested in all our countries and even in those countries—perhaps one ought to say “that country”, the United States—where the constitution so rigorously polices the borderline between the legislature and the executive. Even there the trend has been towards the power of the executive against the power of the legislature, and even after the Watergate affair which had, of course, an effect on this matter.

It is particularly difficult because, as I say, there is no escape from the amateurish nature of the Member of Parliament. We can't have an intelligence test, or whatever, for election. Let me talk only of my own country. We, the 635 members of the British House of Commons, certainly are not the 635 most intelligent people in the country, or the best informed, or the wisest, or whatever.

I always think it significant that the initials “MP” could as well stand for “Member of the Public” as “Member of Parliament”. We are swept off the streets, really, and if you were to go out on to the streets and pick up the 635 people you first came to, only rejecting those who did not have a deep and abiding desire to serve in Parliament, you would end up with the House of Commons pretty well the same as you have it now. The problem, therefore, is how you can take that bunch of people and get them to control the experts of the civil service in an effective manner.

I believe the qualities a Member of Parliament peculiarly has to bring to the process of decision-taking are common sense—whatever that means; it usually means what you yourself are prejudiced towards—and, above all, responsiveness to the electorate. Both of those need to be organized, particularly the responsiveness to the electorate.

If the parliament is working properly, and here it is I think where the committee structure comes in, then it shouldn't only be the common sense of the elected representative which is brought to bear upon issues, but also the opinions of the individual members of the public and, even more, the lobbying organizations of the public. One function of the parliament should be to form a channel through which the opinions of the public and of the lobbying organizations of the public may be brought to bear upon the decision-taking process.

I think most of us in this room know to our cost the other great difficulty which British systems of parliament have in facing the executive. I erase the word “British” because precisely the same exists in the German system, I would say; it exists in any country where ministers are within the parliament. It is easy for the Americans because every congressman can feel that degree of independence from the government because he knows he is not going to be appointed a minister or a secretary for agriculture, or whatever, in the near future or he would have to give up his job.

But with us in a system where the executive exists within the parliament, then one debilitating factor upon the parliament is that we all—don't we?—long for ministerial office and therefore that is a curb upon our willingness properly to supervise and attack the executive.

My own opinion is that there are never any exceptions. I hope you won't mind, Mr. Speaker, if I put it this way, and I speak only of my own country, but I feel in the British House of Commons the number of members of Parliament who long for ministerial office is 635 out of 635, because I feel sure George Thomas would be prepared to take off his wig at any time if the alternative were a seat in the cabinet, which he once occupied.

So that is a problem in this system which the Americans don't have. When we are looking with some envious eyes often at the way in which Congress does, more rigorously at least, look over the executive, we have to remember they haven't that problem which most of the rest of us do have.

Coming to committees more directly, I don't want to describe the changes we have recently introduced because my colleague, Mr. Baker, will be talking on that subject tomorrow afternoon. But just a quick word.

The British House of Commons, of course, had many committees in the 17th and 18th centuries, but our modern committee development really goes back about 100 years. Roughly what was happening was this. You would get a problem: how do you look at past expenditure? So Gladstone creates the public accounts committee.

Then you say, "But you've got to look at future expenditure." So you create the estimates committee, which later was called the expenditure committee, to look at future expenditure. Then people say, "What about subordinate legislation?" So we create a committee to look at subordinate legislation.

May I say in passing, I don't know how it works in the Canadian provinces, but my understanding at the federal level in Canada is that there are few, if any, instruments of subordinate legislation which require positive approval by the House and that there is not a system for vetoing in the normal way subordinate legislation made by ministers.

In London, I should explain, we allow ministers to make subordinate legislation by three methods: first, they have to make it and bring it to the House and it is not law unless it is approved by the House; second, they make it but it is subject to vetoing by the House if you can get the time to veto it; and third, we allow them to do what is commonly done in Ottawa, which is just to let the minister make the thing and it is law without any specific means of parliamentary positive or negative approval.

We had a problem on subordinate legislation which perhaps does not exist at the federal level, at least in Canada; I am not sure about the provincial level. To look over that, the statutory instruments committee was set up.

Then we had the nationalized industries committee and in recent times we have the committee which oversees legislation of the European community as it applies directly in Britain.

Notice that in each case we were appointing a committee for what I would call, for lack of a better word, a function. But the one that looked at past expenditure looked at past expenditure for all subjects; the one that looked at future expenditure looked at future expenditure for all subjects, and statutory instruments on all subjects, and so on.

So you could have, let us say, an issue to do with transport being looked at with regard to past expenditure by one committee, future expenditure by another, subordinate legislation on transport by another committee, a European instrument relating to transport, which there certainly are, by another committee, and so on.

Many of us felt—certainly Kenneth Baker and I very strongly, along with many others, perhaps particularly the younger members of the House—that this was just a daft way of doing things and that we had to move over to a system of subject committees.

I don't want to labour the defects of not doing that because, frankly, most of the other parliaments of the world weren't so foolish as to need to be convinced of the need of subject committees, but I think it is worth pondering what principles should determine whether you do have subject committees.

First, if you don't, then you have duplication and omission. You have more than one committee dealing with a particular subject and you have some subjects not being dealt with by any committee at all. In our case, for example, foreign affairs was entirely ignored, except with regard to some minor expenditure implications, such as the cost of embassies, but not foreign policy. That is one disadvantage if you do not have subject committees.

Secondly, you deny to the member the vehicle for the specialized interest which members, in my experience, intend and want to display. Members do concentrate on one subject rather than another, or on a few subjects, and they want the structure of the House to give them a vehicle for expressing that interest. I don't think that is a bad thing.

I remember during the course of one of our procedure debates in the House, when people were lamenting the poor attendance in the chamber and the declining attendance in the chamber of the whole House, Michael Stewart saying that in the course of his experience in the House of Commons from 1945 to the mid-1970s, debates in the chamber had been worse and worse attended and better and better informed.

He rightly felt that the two went together, that because members specialized in one or two subjects, they only bothered to go along when those subjects were being discussed, and when they spoke on those subjects, they did know what they were talking about, more than in the past. This specialization is, I think, inevitable and desirable, and the committee structure of the House ought to reflect that.

We had, as I said, an expenditure committee where this intention in fact burst through and we split it up into subject subcommittees to give some expression to that. Now what we have done, as Kenneth Baker will describe better later, is to go that extra inch and set up a dozen subject committees, which will cover expenditure in those subjects and general matters in those subjects but not deal with legislation. I don't want to be drawn on to Kenneth's subject matter there.

What kind of wisdom or principles or general rules should we try to distill from our experience about the structure of committee work and the habits within it?

First, subject division is necessary to accommodate the natural specialization of members, and also in order to make some members more responsible than others for whatever is done or not done in a subject. It is a principle of good management, that when something has gone wrong it should not be necessary to turn, for example, to all the people in this room and say, "You are all at fault to some extent"; it should be possible to pick out some and say, "All right, we are all to blame but you lot are more to blame than the rest of us." For that reason it is important to have a group of people in a subject committee that can feel that particular responsibility, so that when a scandal occurs—to take something out of my experience, when you build an ocean-going tug in two parts and it turns out that one part doesn't fit the other part—then you don't have to blame us all. There are half a dozen people to whom you can say, "You ought to have noticed that something was going wrong about that tug." That is one principle, I think.

Then you have to address yourself to the question, if you have subject committees, is there any work which is better not done by them? For reasons which Kenneth Baker will deal with, we have left out the dealing with bills from our subject committees and we did so, I might say in this room, partly on what we learned about Canadian experience when our committee sent a subcommittee here to Canada to see how you did it. It was partly because of this experience that our own inclinations that this was a bad thing to do were confirmed. But there are other aspects of work the question arises: should you put it into the subject committees, or should you leave it out. Let me illustrate it from what we have done.

We decided to retain our Public Accounts Committee for the auditing function because we felt two things. First, this is rather separate from other kinds of work. You need a certain kind of attitude to look back into expenditure in an auditing way. Secondly, we knew as a fact of political life in Westminster there wasn't a cat in hell's chance of getting rid of the public accounts committee. The House of Commons just wouldn't tolerate it, because Gladstone set it up and therefore it has a sort of mystique. We would have been inviting defeat to try to destroy that.

We also felt that the very specialized staff who would deal with the auditing function couldn't very conveniently be shared around subject committees.

We also do not allow those subject committees to deal with statutory instruments, because that we felt was rather specialized work which should be left as is. We have kept the separate committee dealing with the European community legislation because very often that requires urgent attention which can't easily be given by subject committees which may be in the middle of a longterm investigation.

The general rule, I should have thought, would be this: if the subject committee might, in particular circumstances, be too preoccupied or lazy or disinclined on policy grounds to pursue a particular kind of thing that was coming up, then take it out of the subject committee as a permanent arrangement and have that work done by what I would call a functional committee. Roughly that was the principle which was at the back of our minds when we made our arrangements in London.

But the most important point, and one where I think we could gain a lot from hearing from American representatives at this conference, is what should be boundary between the power of the committee and the power of the whole House. Here, as always I suppose, I think we ought to find a middle path between the Americans and the other extreme of the spectrum.

In the United States—I hope I am not exaggerating too much—it certainly has been the case in the past that a committee was able to impede a matter coming to the floor of the House. There you would have a majority on the floor of the House which would have taken a certain decision if the matter had come to them, but it didn't get to them because the habits and procedures were such that the committee on that subject was in practice able to stop it going to the floor, and that arrangement was tolerated by the whole House.

In my view, that is wrong. What should determine the outcome on a particular subject in the balance of opinion in the Whole House. That should also determine the outcome on particular subjects that have come before the committee. So I regard the function of a committee as being to elucidate issues for the benefit of the whole House and then to have decisions taken by the whole House.

In Britain we have had a lot of complaints that much of the work of committees seems to come to a dead end because nothing happens on the floor of the whole House. You might have a report produced by a committee on, let's say, the prison service and if that report is never debated by the whole House, because there isn't time, some people feel that work of the committee has been entirely wasted.

I don't agree with that. I think there is much work which can be completed by the committee.

For example, on prison service, obviously if you want to recommend changes in the law, you will not achieve it unless you get something through the whole House. But if you want to supervise the administration of the prison service then the committee can, by producing a report and then following it up all the time and never letting the department get away, produce the changes in administration which it wants without the matter having ever gone to the whole House.

On those matters which do not need to go to the whole House, it is important that the balance of opinion within the committee should not be able to overcome a different balance of opinion in the House as a whole. I find this issue the most difficult one with regard to committee work and I think it would be fascinating for us to discuss that aspect. Clearly, if you give to committees the power to pre-empt the rights of the whole House to some extent, then committee work is very much more satisfying for members, but it surely cannot be the right democratic solution for the balance in the whole House to be overcome by a different balance in committee.

I don't know if the word "nobbling" is understood on this side of the Atlantic—nobbling the committee; getting the committee to follow the line of outside interests on, let us say, transport. You end up with a transport committee which is intensely pro-road instead of pro-railway, or whatever. That is one of our great problems with subject committees and it is, I might say, one of the hesitations which explained why some people were rather opposed to the introduction of subject committees in London.

I spent just over a year in the European Parliament, until direct elections earlier this year. For a time I served on the agricultural committee of the European Parliament. That committee really ought to be called the farmer's committee rather than the agricultural committee because it is absolutely packed with farmers. That is the danger to which any subject committee system—I apologize to farmers present—is bound to be open. It is a danger, I think, which has been realized, and has been shown to be dangerous, in the United States. It certainly exists in the European Parliament. What do you do about it?

All you can do is to ensure that the House makes certain that the composition of the committee reflects the balance of the whole House and the separate interests of, in this case, farmers and consumers, rather than having the committee gradually packed with more and more farmers or consumers. I think that is one of the biggest problems that needs constant watching with a subject committee system.

Then what about staff? Once again, you strike a balance between the United States, which has gone to ludicrous extremes—and I see a member of the staff of the United States Congress raising his eyebrows at that—and the British, who have gone to ludicrous extremes in the other direction. The British, clearly, have far too few staff for their committees and the Americans too many.

The principle ought surely to be this: You should have enough staff to assist members in doing the job, but not so many that the staff are doing the job and not the members, so that all conversation is a conversation between a Member's staff man and another Member's staff man, and indeed often between his staff man's staff man and his staff man's staff man.

That is the situation where it has got to, has it not, in Washington? We are very, very far away from it. Somewhere in between is the right answer and the principle is to assist members to do the job without taking the job away from them. I would much rather have a member making a botch of things through lack of staff support, but actually making the botch himself, than to have a duplicate bureaucracy within the Parliament which does not have that responsiveness to public opinion which only the elected representative can produce.

Next, one comes to general approach and attitude of mind on committee work. I confess here that what I want to say about this is just as applicable to all work in parliaments as to committee work, but I think it has to be said. The Committee work is, after all, only one aspect of the work of a Member of Parliament and he is not going to be a different kind of animal in committee than he is in the whole House.

I don't believe that any parliament can work unless the member, however he was elected, however much party affiliation played in his election, behaves very independently of his party. I don't think a parliament in which the rule of the whips prevails is worthy of the name.

In Britain and I think in our type of parliament, you can say that parliamentary democracy always lies in trust with the back-benchers on the government side of the House. That trust has passed recently from my hands to Kenneth Baker's hands and I am looking forward with interest to see how the Conservatives in this period match up to it. There haven't been occasions for them recently to do much about it, but we shall wait and see.

There is not much that an opposition can do about it. The opposition is going to oppose. The back-benchers of the opposition are going to be more supportive of their own front bench because they are in opposition that they were when they were in government. They are more likely genuinely to agree, but unless the back-benchers on the governing party are prepared to give ministers hell, to disagree with them and to vote against them, you might as well lock the doors, pack the place up and all go home.

There are parliaments where I understand it is unheard of for a member of a party to vote against the accepted party line. I think that is dereliction of duty.

People will say, "It can be fought out and should be fought out in the caucus. I hold a certain view"—I heard a "yes" I think on that—"so and so holds a certain view. Let him fight his case in the caucus. If he wins, he has the whole caucus on his side. If he loses, he goes with the majority. That's how it ought to work."

I don't want to bring in local British stories, but just consider what that would have meant on the subject matter which was mentioned by the chairman, the subject matter of devolution in the United Kingdom—that is the creation of a parliament in Scotland and a parliament in Wales. I am not going to go into the merits of that proposal except to say that it didn't have any merits whatsoever. But consider the parliamentary numbers game of it. If I, who was opposed to my government's view on that matter, had fought out the battle in caucus, I would have been defeated. A majority of the Labour Party was supporting

the government's daft ideas on the subject. So I would have been defeated and silenced and the matter would then have been carried in the House of Commons because there was a majority of the Labour Party and allies in the House for this purpose. If you had put all 635 members on a truth drug, you would have had a majority who were opposed to it but it would have passed, because the minority within the Labour caucus would have been silenced.

It is a very obvious point and I don't need to go on about it, but that isn't democracy, where the actual majority is transfigured into a minority because some people have been told, "You are in this team and you damn well go with this team or get out of the team." That cannot be right. You can't pretend that is a democratic arrangement.

What I say is that every member of every party should recognize two things. First, in nearly every case he was elected as a party representative and that means something. He wasn't elected very much, in British conditions anyway, as a person, as an individual; he was elected as a party representative. But the people who elected him as a party representative sure as hell didn't want him to be a zombie. They didn't want him to suppress his individual opinions and his judgement on every issue.

These two things, to my mind, are perfectly compatible with each other. It means that you should act as a party representative, upon those matters because of which you were elected as a party representative. So if I were to vote against a Labour government to bring it down against a vote of confidence in the Labour government, that would be contrary to the mandate, as it were, that I was given when I was elected. But when they elected me, they didn't take into account all the individual issues that might come up in the course of Parliament. On those things and on timing and on method, the member must be prepared to go against the caucus. If you are not, you can have efficient government but you won't have responsive government.

That is what democracy is—having decision takers, and the majority of decision takers, who are sensitive to and responsive to what the electorate would decide if the electorate were within the chamber and within the division lobbies on that issue. It is not enough to criticize in caucus and then go along with the majority decision.

Just to conclude this illustration from the devolution saga, if it had been done your way, then what would have happened is that we would have foisted upon the people of Wales—to take the more extreme example—an arrangement which, when their views were tested in a referendum, turned out to have the support of fewer than 12 per cent of the people and the positive opposition of 40-odd per cent of the people. That is what will happen if caucuses become too powerful over the individual member.

I don't want a parliament of independent members, but a parliament of party members who are independent-minded, robust, unbullyable and unbuyable. Somewhere in that grey area is the right formula, the right means of behaviour for having a properly responsive parliament. Only then are you giving the public, the individuals and the organizations a real voice.

How do you bring that to bear upon committees? I conclude with these general rules. First, the committees should be there to elucidate for the whole House. The relevance of this to what I have just been saying is that it is terribly bad when the party division in a committee is such that one side puts the view that one party has adopted and the other side puts the view that the other party has adopted.

Very often we find it best for committees of the House to adopt as subjects for examination those subjects on which the parties have not taken very firm positions. That certainly makes life easier.

But I don't believe you have to restrict yourself to such matters. Committees can do a very valuable job on subjects where the parties have taken fixed positions if they see their job not as being a forum for slugging out that battle again—you can do that on the floor—but rather for elucidating the issues, putting the case on one side, putting the case on the other, and against on both sides. If the committee is together for long enough—and it is rather important, I think, that the members should get to know each other and work with each other over a long period of time—then that can be done despite the strong party affiliation of the members on the committees.

Secondly, inefficiency and waste must be attacked when it exists in the government of one's own party just as rigorously as when it exists in the other party. If a Labour man attacks Conservative waste, no news; no value whatsoever. The value is when a Labour man attacks Labour waste and when a Conservative attacks Conservative waste. That is what I mean by parliamentary democracy being in trust with government back-benchers.

Thirdly, in committee, even more than in the House, members must be prepared to carry their criticism to the vote. People say, "I will do everything short of actually voting against my own side", but it is almost like saying that a policeman will huff and puff and go to everything short of actual arrest, but he will be denied the right to arrest. If he has the right to arrest you and a gun in his holster, he probably won't need to use it. If he doesn't have it then the minor methods of persuasion are doomed to failure, because the object of this persuasion knows that in the end he isn't going use the ultimate deterrent. The member has to be prepared to use in the end the ultimate deterrent and he will probably find that he doesn't actually need to use it.

Finally, it is important for us all to realize that with or without staff, it is doing our homework which will make us effective in committee. Members who drift into committee and read the papers on arrival are not likely to have a great deal of effect. It is important to use the staff (but not to let the staff do the work) and to drink in the briefs and so on which are presented.

Mr. Chairman, those are the thoughts that occur to me as being the ones that affect committee work. I think you will probably sense that I passionately believe the principles of the independence of the member from the party, without taking away from the party as such.

I do believe that this is the most important thing about parliaments at the present time, but second in importance is the structure and methods which allow the attitudes of the member to be brought to bear upon the subjects that come before him. I am looking forward very much to hearing the experience of other people in the very many parliaments that you have in Canada, because their experience is just as relevant to our situation as ours is to yours.

Thank you very much.

The Chairman: Thank you very much, Mr. Cunningham. I was just looking over to see whether or not any of our government back-benchers were here. Fortunately there were none. We do appreciate that spirit of decorum. Now I think we will bring ourselves back to order to carry on with the theme of this first session, "Getting the Most Out of Committee Work." I am sure we would all agree that we have had a very provocative, thoughtful paper presented to us and certainly we should have some discussion on this matter. May we agree that the microphone half-way down should be used by those who want to participate, that you identify yourselves and the areas from which you come so that our records could be quite complete. Without any further comments from the chair but just as one of the fellow "sweepers" to which George made reference, those of us who have been swept off the street into parliamentary life, we might now invite some comment.

Dr. MacGuigan: Mark MacGuigan, Member of Parliament for Windsor-Walkerville. That was a thoroughly admirable address and I think I find myself in very complete agreement not only with the problems that were posed but the solutions that were suggested. I would like to ask Mr. Cunningham, though, how his statement about the Labour back-bencher was affected by the recent party congress, but I will stay away from that political subject—

Mr. Cunningham: So did I.

Dr. MacGuigan: —and come to the more parliamentary question respecting committees. I am not sure wherer I disagree with him on this point because I am not sure exactly what he means. The dimensions of our problem here are a little different because our standing committees consider legislation as well as special studies. But with respect to your point that the majority in the committee can't interfere with the majority in the House, I am not sure I understand what you mean by that and how you would assure that.

It seems to me on the basis of your own principles that the committee member must fully express his views. Of course he should exercise self-restraint, as I think you were also suggesting, if it's a basic policy of his party for which he was elected; obviously he has no right to be voting against it. But if it's something short of that, it seems to me the committee member should give full expression to his views in voting in committee, even on bills.

In our House we have a safeguarding mechanism for that. At report stage, we have the opportunity for amendments to be presented, even by the government if it doesn't like the results of the committee stage proceedings. So, if the government's own members have caused the defeat at committee stage, it is possible for the government itself to seek to have the rest of its supporters put that right.

One of the reasons I think—it is so important that committees retain this complete right to change legislation—is that it's surprising how often government ministers, when they are forced to it, can accept the decisions which committees have made. If the committees don't make them, they never find this out, but the minister finds he can really live with these changes if he has to; rather than take it to the House and cause a great unholy stir, he will live with it. It seems to me that a committee has to function in that way.

I am not sure if that ties in with your view or if you were saying something else.

Mr. Cunningham: Yes, it does very much and maybe I put it badly. When I say the committee should not be able to undo what would result from the balance of opinion in the House, I don't mean people in the committee should say, "Well, my view is X but I know the balance in the whole House is different and therefore I vote that way." Certainly not; that would be quite contrary to the principles I am enunciating. I mean that the committee should not be able, for example, to stop something going to the House.

I think in the Westminister-type situation that doesn't normally occur anyway, but I am trying to underline the point that it should't occur, that it's anti-democratic for it to occur and that the whole House, while certainly paying attention to the views of a committee and not likely throwing out what the majority of the committee has produced, should not be reluctant to do so if they are very sure of their own judgement on the matter.

I very strongly agree with you on the business of governments finding that what they regarded as totally unacceptable and unwise turns out to be acceptable once the committee has put it in the bill. There was a fine illustration of that when Kenneth Baker and I were last in Canada with the subcommittee on procedure.

We were downstairs in Ottawa talking with Alistair Fraser when the news came through on the tape that my Labour government had been defeated in the finance committee on the budget bill by a rebellion by two of my labour colleagues, Audrey Wise and Jeff Rooker, who had voted with the Conservatives and changed the finance bill to the tune of half a billion pounds. I remember Alistair Fraser saying there is no way any Canadian government could survive if defeated on the budget to the tune of half a billion pounds. The academics in Britain would have said that that was the case in Britain too, until it happened and it was acceptable. The government in that case did not move to change it on report, although they could have done so. They almost certainly would have gotten away with it if they had tried, but they found that it was better just to let it go.

Mr. Ellis: Jack Ellis. I am a federal MP from eastern Ontario. What would you think of your committee system being televised? I know that Westminster has not yet gone to television, but what would you think the impact on your activities would be at least the more important committees to be televised?

Mr. Cunningham: We have radio in the House but not television. That's the arrangement at the moment.

Dr. MacGuigan: Do you have radio in committees?

Mr. Cunningham: No, just the House.

Mr. Baker: Committees too, now.

Mr. Cunningham: Has that been decided, Kenneth, radio for committees? I missed that.

My view was that I don't too much object to television for committees; I do rather object to television for the House. But where the television company felt the committee work was sufficiently interesting to do it, which would not I think be very often, then it's a good idea for them to do it in committee but not in the House.

Mr. Ellis: That brings us to another question on which we in Ottawa disagree with our colleagues in Ontario. In Ontario, as I understand it, the television in the House in the afternoon is really at the decision of the broadcasting company. In Ottawa, the television is entirely under the control of the House and we would expect to keep it that way. From what you said, I gathered you would be prepared to leave the control of television, even in the committee, in the hands of the BBC or whoever is in charge of your television.

Mr. Cunningham: I think there's a difference. The television people would have to decide whether they wanted to cover a particular committee hearing. I don't see how that could be decided by anyone except them; only they could tell whether there was going to be anybody wanting to look at that program. Many of us looked with very approving and envious eyes at the arrangement that you have in Ottawa for House control of the television coverage. Whether it's television or radio, the same principle applies. There was a move in London to have the same sort of arrangement for control of the radio coverage but it was defeated. Many of us were rather disappointed about that.

Mr. Forget: Claude Forget, a Quebec Legislature member. I would like to congratulate Mr. Cunningham for a most stimulating presentation but at the same time I think I would like to take issue with his main theme.

The experience we have had in the Quebec Legislature is precisely of the kind described by Mr. Cunningham. We have had, for the past 10 years, a committee system on a subject basis and it would seem that the operation of such a committee system has helped to enhance rather than diminish the importance of partisan conflict in the work of the legislature rather than back up the independent role of private members.

There are exceptions to this rule but the exceptions are really confined to one class: occasions when the committees are used to hold hearings to which groups and individuals are invited to make presentations with respect to government policy or legislation. These committees confine themselves to hearing those views and will not emphasize the party differences in the legislature. Otherwise, they tend to be just another forum on each subject matter for the clash of parties and party views.

Isn't there a contradiction between the proposal to set up a committee system based on subjects rather than functions and the other concern that we all share, reduction of the overwhelming importance of the executive in the work of the legislature? There are a number of prerequisites, after all, before the private member's role can be enhanced. One, I would think, would be to exercise some degree of expertise. We are all amateurs and that has to remain so, but perhaps we should not overemphasize the amateur concept because, if we do, in the end even the committee system based on subjects will prove worthless.

There is some need to build up expertise. If the expertise is built up by subject, it will tend to follow the lines of party platforms and be determined by the requirements of public administration and the business of government. If it's based on functions, however, it can more easily assert itself in terms of this or that particular point on which a private member, without contradicting his party's views, can assert his influence and knowledge of affairs.

Another element in enhancing private members' influence is the question of to whom are the committees addressing themselves? Are they addressing themselves to members of the cabinet? Are they in an adversary position vis-à-vis members of the government? Or are they rather to be looked at as a legislative body looking chiefly at public administration and at the way government policy is implemented or developed?

If it's not an adversary relationship vis-à-vis the cabinet and the government but vis-à-vis the public administration as a distinct entity, then you enhance the possibility of having a committee system which really has substance to it.

So it would seem to me on both these counts that a functional committee system is really the solution. The reason I am saying this—it may not be applicable to the UK with a much larger House than provincial legislatures—is that the experience we have had with the subject committee system is that we have had just so many more occasions to debate our partisan differences and not really very many opportunities—although they were there, people would not avail themselves of them—to really go down into the fine print, as it were, of public administration and determination of policy.

Mr. Cunningham: Mr. Forget, I don't really see why a subject committee should result in that repetition of the party polarization any more than a functional committee. I don't think it is our experience in London—of course this is the difficulty of different habits, and often they are just habit—that a functional committee such as, say, the Public Accounts Committee or the Expenditure Committee, has taken a less party-political view than the subject committee.

You could only call this a habit, but if you take a number of government back-benchers—and I had better just speak for my own party; Kenneth can speak for his—take a group of Labour back-benchers when Labour is in government and put a minister before them and their instinctive response is to heave a brick at him. There are very big differences between our habits in Britain and yours in Canada, illustrated by question time.

I don't know anything about provincial legislatures' question time, but I know that in Ottawa, question time is regarded as the opposition's exclusive right. In Britain, no minister is bothered about hostile questions coming from the opposition. He's only shivering at the questions, which are very often hostile and critical, coming from his own side. The time is shared equally, one question from the government side and one from the opposition side as a general rule, and it's only the government's own attacks on itself which are hurtful. That being so, when people get upstairs into committee there is not normally that inclination to support their own minister.

For example, a little more than a year ago our Nationalized Industries Committee, which was a functional committee, wanted to give the Minister of Industry a hard time. That committee had a Labour chairman, a Labour chairman of the relevant subcommittee and several Labour members on it. It was they, certainly as much as the Conservatives, who gave the minister a very hard time on that committee.

So I don't see that there is anything in the nature of a subject committee that should result in the polarization that you mentioned, any more than for a functional committee. That's certainly not our experience.

There is the other point that, as I understood it when we were talking over coffee, in Quebec you give the subject committees responsibility for bills. If you do give them responsibility for bills, then whatever party loyalty there is inevitably comes out more than would be the case if they were looking after general studies and even expenditure matters. That was one consideration why some of us did not want to give our subject committee responsibility for bills.

Of course the whips try to so organize the subject committees that they haven't got a very hostile group from their own side, but if they were looking after bills, they would much more explicitly pack those committees. I have never had a problem in getting onto a select committee—that is, a subject committee type of thing. I have often been told, "You are not going on such and such a standing committee," or as we call it, "bill committee," to use a sensible term. I have often been told, "You are not going on such and such a bill committee because we cannot afford to lose on that bill". That is one reason for keeping bills outside your subject committee, particularly, as in our case, when you are just setting them out and want to give them a chance to get established.

[Translation]

Mr. Comtois: Mr. Chairman, my name is Roland Comtois and I am Member for Terrebonne in the House of Commons. I wish to congratulate Mr. Cunningham for his views with which I agree in principle but which are very difficult to apply. You just mentioned one point I wanted to raise about the designation of committee members by their parties. If some members are a problem in a particular committee, they are simply taken off that committee.

Now, I would like to ask you the following question: when members are appointed on a committee, are they supposed to sit during the whole session of Parliament or can they be changed at any time? That is my first question.

[Text]

Mr. Cunningham: In the case of a bill committee, I think it would be useful for me to use that term to refer to the committees that take bills with us, because as you know, we use terms which the common sense meaning is the opposite of what we mean by it. In the case of a bill committee, once you are appointed, you will only be taken off for a very, very good reason, like illness. The committee of selection which appoints the members of those bill committees, without approval of the House, it does not have to be approved by the House, will not change a member simply because the government asks them to simply because he voted against them. They will not do that at all. So once he is on, as a general rule, but for illness and so on, he will stay on until that bill is disposed of; then the whole committee disappears and is reformed for another bill.

In the case of select committees, the appointment is actually made by motion of the House, and changes are very frequent by our standards, but I must say not at all by comparison with what happens in Ottawa; and can I be slightly provocative and say that the Standing Order in Ottawa that allows the Chief Government Whip to appoint members of committees is an absolute disgrace and should never be allowed in any parliament.

[Translation]

Mr. Comtois: I agree with you, and I hope the Conservative Government will make the necessary changes. I did vote a few times against my own party both in the House of Commons and in some committee meetings, and it is always a little difficult but I agree that the role of the government back-benchers is essential in our parliamentary democracy. I am full in agreement with you.

I don't know if any other Member has had the same experience but I must say that taking this kind of position more often than others would does not make life easy. In our parliamentary traditions, it doesn't happen very often. But I think the tendency you described is real and that the independence of the Members is stronger and will become even stronger. I think that this holds true here in Canada, in the House of Commons.

So, I am very pleased with this discussion which has clarified many things and, inasmuch as amendments to our Standing Orders and to our Committee's Rules are concerned, I feel that your views will be most useful. Thank you.

[Text]

Mr. Cunningham: I might say that one thing is very interesting for us all to hear from each other: the extent to which the public wants and insists upon a certain measure of independence. My thesis is that what's wrong with democracy in Britain is the public, because the public does not on the whole insist upon that measure of independence.

Dr. MacGuigan: That's true here too.

Mr. Cunningham: If it's desirable, and I must assume that it is, as long as that measure of independence is a voluntary decision of the member it may be very virtuous for him to decide it, but it's not exactly safe unless it's obligatory. It would be interesting to hear from other people's experience how the public responds to rebellion by members and to what extent they require it.

I would have thought that any congressman in the States who went to his district and said, "I voted with my party on every vote in the last five years, two years or whatever," the answer would be, "Well, you can't have been paying any attention to what you were doing because you couldn't possibly agree on all those things." The opposite is true in Britain.

Mr. Ellis: Just very briefly, Mr. Chairman, I want to say to my colleague, Mr. Comtois, that we will be hearing recommendations Thursday from Benno Friesen, who chaired a committee on recommendations and policy changes particularly on committees. I sat on that committee all summer. We will be recommending changes in the manner in which changes can be made on committees. If nothing else, we hope to insist that the Government Whips and the Opposition Whips may not change a member on a committee without one week's notice, which should give time to get a contentious vote through and passed or otherwise before the whips get a chance to move in. These and a number of other changes Benno will be talking about on Thursday morning.

Dr. Kravitz: Walter Kravitz of the United States. I am fascinated by your comments about my country's institutions.

Mr. Cunningham: Would you like to have some of ours?

Dr. Kravitz: Sadly, yes; mostly. Regarding your comment about what would happen to a member of Congress who went back to his constituency and boasted that he voted for his party on all the votes, I think one of the replies would be, "Which party are you talking about? If you are a Democrat, which part of the Democratic Party policy are you talking about?"

But that's not really what I wanted to ask. I was interested in your comment about the usefulness of committee reports even though they may not be debated by the House. There is a dispute in some congressional circles at the moment concerning what's looked upon as the flaws in the American committee system in conducting what is called oversight in the United States, that is, constant surveillance of the operations of the agencies of the executive branch and the way in which they implement policy.

One of the causes for this, it is claimed, is that the individual members rarely have any individual interest in pursuing this kind of activity. One of the reasons given for this lack of interest is that on the one hand it's ineffably boring and on the other hand there's no political reward at the end of the tunnel, usually, unless some scandal comes up which would call attention to the activities of the committee and therefore to the activities of the individual member and redound to his political benefit.

Therefore it has been suggested that one of the incentives that should probably be built into the system is the incentive of legislation at the end of the line. Committees and their individual members are much more likely to conduct systematic comprehensive review of the activities of the executive agencies if at the end of the line they can see a piece of legislation with their name on it that will be the product of all this work and will give them some public credit.

Your remarks imply that this kind of incentive is not needed in the British system, that this is not a factor in reviewing the work of the executive branch, that members themselves will, out of the idealism of their hearts, do this kind of work willingly, with joy and happiness, even though there may not be any credit for them individually at the end of the line?

Mr. Cunningham: First, as you said, there is often at least the prospect of credit because you find a scandal. That's something.

A few years ago I was involved in what became a scandal of the crown agents who had lost 120 million pounds or something, which is big money by our standards. That was partly investigated by a committee of the House. I think there is more of an attraction there than you're implying—in our conditions, at least.

We don't usually have a problem in getting people to serve on the Public Accounts Committee even though its work is rather detailed and boring. We do, of course, have a very large House—a ridiculously large House. There is no question that if you were inventing from scratch a legislature for the United Kingdom you wouldn't think of the figure of 635 but of something very much lower. So inevitably you do

end up with largish groups of members with different inclinations; those who are purely ministerially-minded; those who are entirely constituency-oriented and really do very little in the House but who get Mrs. Somebody's drains mended and so on; and those who do take to committee work and the detail of committee work quite a lot.

I think it would be true I don't know if Kenneth would agree—that because of our large numbers we are able to find enough people to do this detailed committee work. It must be said that many of our committees in the past which were supposed to do detailed work didn't do much of it. They didn't do as much as they were supposed to do—I see Mr. Limon nodding his head. I mean the so-called Expenditure Committee. They embarked on general, quasi-academic studies rather than looking at the nitty-gritty of the estimates and the public expenditure blue book. But I think we get enough people to be able to make the system work.

It was partly this factor, however, which made the procedure committee recommend that the new dozen subject committees should have a size of only 10, which is very low in a legislature of 635, because people said to us, "Look, you won't get enough members to man these committees and actually turn up and do the work." So rather than face the possibility of that factor killing the proposal altogether, we went to a very low norm of 10. I would have preferred 15 rising to 20 and I think we will rise up.

Frankly, my honest answer to you is I don't think we've got anything like the problem that you imply you have in getting members to do this kind of work. It's not, after all, much work. At most, even for the Public Accounts Committee it's only two sessions per week lasting maybe two hours each perhaps, or something like that—or an hour and a half each.

Mr. Takie-Otto: Mr. Chairman, I think I agree with Mr. Cunningham about the independent attitude of a Member of Parliament. But I have one question to ask.

A party fights an election on a manifesto. Obviously, anybody who stands on a party ticket does so in line with the manifesto.

You are elected to parliament as a party member and there is an issue which the party thinks will help them in their manifesto. Then, when it comes, you vote against it. This obviously is going to go against the program of the party in power.

I want to know, where does one draw the line in rebellion against his party?

The Chairman: I would think there are a number that would like to have that answer.

Mr. Cunningham: Me, too.

The Chairman: Including Mr. Cunningham.

Mr. Cunningham: I have pondered about that. On the devolution business that was mentioned, that was a policy which was in my party's manifesto.

I think relevant considerations are, first, to what extent did a member have any influence upon what was in the manifesto? If someone threw at me the charge, "You're voting against something that was in the party manifesto", I could reply, "I didn't put it there. Not that I voted against putting it there but I didn't vote either for or against it and nobody ever asked me what should be in the manifesto. I never had any opportunity to decide what should be in the manifesto. If someone put it in there that's his problem".

It will vary from country to country and, indeed, from party to party. I see Kenneth Baker contorting himself as if he has a very big important say in what goes on in his party's manifesto.

The Chairman: Tune in tomorrow afternoon at three o'clock and we'll find out.

Mr. Cunningham: Whereas my party manifesto is decided by a small group of people, his manifesto is decided by one person. But I withdraw that remark immediately.

I think that's one consideration.

A second, and a more subtle one in a way—and I know I'm rationalizing to defend myself against self-criticism, as it were—is that maybe it's easier to do this with regard to a party like mine which started and continues as an ideological party with a position on politico-economic strategy. God knows it's broad, but it's supposed to be based upon that.

If what is in the manifesto relates to the purposes which brought the party together, I think that's different from something which is in the manifesto which does not relate to those purposes.

If in my party manifesto we decide to go for the nationalization of banks and insurance companies, then that's one situation. If I don't believe in that then really I ought to go and not fight upon that basis, because that is the central core of the kind of thing that my party is there to promote.

But if those who draw up the manifesto choose to chuck in bits and pieces here and there which have no relationship to the economic management of the country—in other words they're not related to the Socialist Party—then I say that that is not what brought the party together and divisions on such issues should not be regarded as central, and crucial.

I don't know if I've expressed that very well, but you see what I mean. I can also illustrate it by reference to the European Parliament.

When I was in the European Parliament as a British Labour member, I constituted part of the socialist caucus there—not the British caucus; there was no British caucus. Kenneth's colleagues in the Conservative Party in the European Parliament belonged to a different caucus, all themselves practically. We belonged to the socialist caucus.

I would argue, whereas I disagreed very strongly with the majority of that caucus on the European issue—should Europe unite quickly or slowly, and so on—I would regard that as not central, because we were in a socialist caucus and not a caucus related to European policy, so they shouldn't be able to discipline me on a matter which was not central to the considerations which brought those socialist and Social Democratic members together.

I'm sorry I haven't expressed that very well, but I think there is a consideration there. Certainly, that's what I tell myself.

Mr. Belamy: Mr. Chairman, I am from Trinidad and I want to make it abundantly clear that the people of Trinidad and Tobago have accepted party politics.

Trinidad is a very small place. There are 36 constituencies between Trinidad and Tobago. And whenever we go to the polls, the party program and the party policy is discussed. The people have implicit confidence in the current leader and whoever he puts up, that's it. So we can give you the assurance that in Trinidad they vote for the leader and nobody else. I can just collect a few votes but I can collect enough to win. In fact the country is so determined and so well knitted with respect to party politics that they agreed to the government passing legislation that any member who crosses the floor has to resign his seat and face the polls. This is recent legislation.

The Chairman: It's unfortunate that the record can't record the buzz that just went up.

Mr. Belamy: The people are inclined to feel that the democratic rights and freedoms have been enriched, but the voters didn't say so.

On the subject of committees, our Parliament exercises the same type of establishment of committees. We have, for example, a Public Accounts Committee and Public Enterprises Committee. The Public Enterprises Committee is a committee which deals with all public enterprises and the public accounts committee basically deals with the public service.

While the Public Accounts Committee can interrogate and so on, the powers rest with the Auditor General to identify and to report any discrepancy that he has discovered and maybe take action before it reaches the Public Accounts Committee. All the Public Accounts Committee does is to report its findings back to Parliament.

We have our Finance Committee. This committee is comprised of every member of the Parliament, but the chairman of the Public Accounts Committee is the Leader of the Opposition and likewise with the Public Enterprises Committee. Every committee of the House, whether it be a select committee or whatever, has no power at all except to do the work, to elucidate as you have said and report back to the House.

You asked to what extent can a member carry out his responsibilities? We in Trinidad believe that since the country has accepted party politics, to ensure the stability of party politics and also to ensure the stability of the country, strong disciplinary measures must be enacted. I believe this is the reason why Trinidad happens to be a stable country, under one leader, and we've had him for 25 years.

We took the country from what we describe as colonialism to a republican form of government, undivided. So I believe, Mr. Chairman, we in Trinidad are quite justified in our feeling that since party politics means so much for the country, since it stabilizes not only the government but the economy of the country as a whole, we are encouraged to pursue that route.

The Chairman: Perhaps we could invite one final comment or question before we adjourn for lunch.

Mr. Campbell: Mr. Chairman, I am Bennett Campbell, the Leader of the Opposition in Prince Edward Island.

I'd like to come back just briefly to the initial point that Mr. Cunningham made. That is, the general concern for the control of the executive branch by the legislature. I'm wondering how you effectively do that in a system similar to our own provincial legislatures where committees are established by the House and they take into consideration only matters referred to them by the House and, of course, report back in due course.

In most cases committees are established with the majority from the government side on the committee and traditionally in our legislature and, I suspect, in a number of Legislatures across Canada, can be used by the opposition to expose some rather ticklish or touchy subjects in various fields.

Of course, through the caucus the government and its representatives can, in essence, maintain control over what happens in the committee. To the extent that is possible then, our committee system doesn't really work in terms of achieving the goal of maintaining some control over the executive branch. Having become Leader of the Opposition in the last six months and as a former member of government, I can share with you both sides of the coin.

Effectively our committee system doesn't work that well since the government side has the majority on the committee and since the committee's intention is not to look into some general subject area or to provide a structure for developing input to a particular policy. As long as this principle prevails in the committee system the majority will always carry, and report back to the House in accordance with the general views of their caucus and in essence very little happens within the committee structure.

The other item that I'd like Mr. Cunningham to comment on is that provincial legislatures—at least our own—only sit a certain number of months during the year. In a lot of cases the committee is just beginning to get down to the real subject matter when the House is about to close. I wonder if there is any view as to how the committee can be more effective in terms of being permanent committees, and how you deal with the aspect of the government control over the committee.

Mr. Cunningham: On that last point of the committee having its work interrupted by the House going into recess or ending a session, of course with the British House of Commons the House sits so very long that that isn't a problem.

I think it's true that our committees are authorized to sit when the House is not sitting as a general rule, Mr. Limon.

Mr. Limon: Most of them do, yes.

Mr. Cunningham: So if, as commonly happens, a committee coming up to the summer recess still has its report to complete, it isn't common for it to continue seeing witnesses and so on when the House isn't sitting, if only because so many members are away that it would be difficult to get them to come when the House is in recess. But it's perfectly common for the committee to sit to such extent necessary to produce its report and to publish it.

But that, frankly, is a problem which is so strange to our situation that I couldn't advise on it, except that we do have this rule that when the committee is set up it normally has the power to sit whether the House is sitting or not.

Secondly, our committees, with rare exceptions, are not limited to considering matters which are referred to them by the House. Obviously if you set up an ad hoc committee on such and such a thing then that, by definition, applies.

When we had two Procedure Committees in one parliament, one of them was only allowed to consider specific matters referred to it. That was mainly to avoid duplication, so that they didn't choose to go over the ground that was being considered by the reform committee. That's not our normal practice.

So with us—and certainly this will apply to the new subject committees—they are free to do what they please. That will even apply to border areas between the responsibility of committee A and committee B. If they both choose to do a certain task they will be allowed to go ahead and do it. I think that duplication won't matter compared to the difficulties you get into if you rigidly prevent them from doing anything unless it is referred to them.

As I understood the Ottawa situation, one reason why you did not allow a committee to pick up things on their own initiative was because you had given them responsibility for expenditure, to consider the estimates and bills. Those two things just need to come out; you can't put up with them not coming out. So you have the rule that if they don't report on expenditure then they are deemed to have reported without opinion, or whatever it is. The bills just have to come out. It's reasonable, in those circumstances, not to permit them to pick up a hundred other subjects to study.

With us, since they won't have the bill work and because it's our tradition to do so, they will be able to pick up any subject they like. I think there's an awful lot to be said for that.

To have to go to the House and say, "This committee wants to do a study on the probation service," or whatever and get the House to pass a motion on that, somebody who isn't on the committee is bound to want to make a speech about that subject so it would have to be debated and it would take too much time. So I'm very strongly in favour of allowing the committee to do that without a reference from the House.

On the third thing, caucus control, you're back on the central issue. We don't have much of that problem.

A Whip's job on one of our bill committees is a pretty thankless task—particularly during the period 1974-79 when the government had either a wafer-thin majority or none at all. It was a Conservative in our country who once said, "The Whips are not so much whips, they're more feather dusters." What sanctions have they got? In our situation they have very little.

Let's take an example. At the beginning of 1975 some of us rebelled against our own party on a subject to do with pensions. We carried the vote against the government and the change took place. Denis Healey, who was Chancellor of the Exchequer, was furious. But my local party passed a motion unanimously supporting me and sent a letter to my Chief Whip telling him that he ought to pay more attention to what his back-benchers are thinking in future. That's not what they did on the devolution, I might say.

You may have parties that are, in our terms, Bolshy—they don't go for what the leadership wants necessarily. They don't go for what I want necessarily; they will be just as Bolshy to me when they disagree with me, but they're not going to take it down the pyramid line. I find it interesting that you've all got this habit. It's encouraging really to feel that in this respect, at least, our habits are more democratic than what some of you are describing.

Mr. Comtois: I just have one short point about the manifesto during an election campaign. There is one way around that: have your own manifesto in your constituency. I always have one with things I want to be done and that are not on the party manifesto. I'm committed to these reforms or that program. Very often you don't have a chance to have these proposals accepted by your party.

After a while I found out that at the next election, or the second one after that, these exact proposals are on the manifesto of the party. So members of my party and I are working on a new system where we will have a regional manifesto and this will eventually go through to the party platform.

But it's very hard for any member to have some proposal accepted by his own party because, as you say, the manifesto is produced by a few people without consulting anybody. That's one way around it. I'm committed to these proposals before my electorate. I get a very good response to acting in that way.

The Chairman: Obviously some of these innovative and pragmatic approaches to the main principle will be discussed over lunch. We're grateful to Mr. Cunningham for getting our seminar off to such an excellent beginning and, indeed, we hope he plans to be with us for most of the week.

I notice that on the agenda there is some opportunity for you to be in the gallery. Our House is in session. Question Periods are usually quite spirited and interesting. If any of you are particularly interested in the subject of energy, there is a full day of debate tomorrow on the subject of energy. If any of you have any ideas on that subject you might want to send me a little personal note in a plain envelope. I'd be very grateful.

We will adjourn this particular session.

The seminar recessed at 12:05 p.m.

MONDAY, OCTOBER 15, 1979 - AFTERNOON SESSION**Chairman:**

Mr. Patrick LAWLOR, Q.C., M.P.P.
Chairman, Select Committee on the Ombudsman,
Legislative Assembly of Ontario

Subject:

Committees for the Redress of Grievances

Main presentation:

Mr. Claude VAILLANCOURT, M.N.A.
Vice-President of the National Assembly, Quebec

Participants:

Mr. Joseph-Roland COMTOIS, M.P.
House of Commons
Ottawa

Mr. George CUNNINGHAM, M.P.
House of Commons
United Kingdom

Mr. Claude FORGET, M.N.A.
National Assembly
Quebec

Mr. Jean-Robert GAUTHIER, M.P.
House of Commons
Ottawa

Mr. Philip LAUNDY
Director, Research Branch
Library of Parliament, Ottawa

Mr. Peter DOBELL, Director
Parliamentary Centre for Foreign Affairs
and Foreign Trade, Ottawa

Monday, October 15, 1979

Afternoon Session

—Summary—

Committees for the Redress of Grievances

M. Vaillancourt began with a sketch of the evolution of committees within the Quebec National Assembly over the past few years. He indicated how the committees' workload has grown and that MNAs are becoming increasingly preoccupied with committee work. He also explained the role of "intermediary" members of committees, who participate in the proceedings but do not vote.

M. Vaillancourt then outlined changes in procedures for raising grievances in the Assembly and explained why these were viewed as insufficient and thus led to experimentation with an entirely new committee procedure, the "interpellation" or questions with debate. These interpellation sessions take place in the Chamber on a day when the House is not sitting. Ministers are called before the Committee to respond to questions of current public interest raised by MNAs and to engage in extended debate on such questions. Although the Minister and the Member raising the interpellation have priority in speaking, regular rules of committee procedure are followed so that all committee members, including intermediaries, have the opportunity to speak.

M. Vaillancourt's presentation was followed by a videotape of an interpellation committee at work.

Mr. Lawlor outlined the role and function of the Ontario Legislature's Select Committee on the Ombudsman. He explained how this committee serves as a link between the Ombudsman and the Legislature and he described the approach taken by the Committee when the Ombudsman's recommendations are rejected by the Government.

COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
MONDAY, OCTOBER 15, 1979

The seminar resumed at 3:20 p.m. in room 151.

[Text]

Mr. Holtby: Our chairman for this afternoon's session is Mr. Patrick Lawlor, QC, the member for Lakeshore, a western Toronto constituency. Until a year ago I would have said Mr. Lawlor is a lawyer, but I now introduce him as a poet. I'll let him put in a plug for his book of poetry at the time when he wishes. When he is not cultivating the poetic muse he from time to time gets in a little practice of law.

Mr. Lawlor was first elected in 1967, he is a member of the New Democratic Party, and as you note on your program he is the Chairman of the Select Committee on the Ombudsman, which is the committee of this House which exercises a relationship between the Ombudsman and the House in an advisory capacity and in other relationships which Mr. Lawlor may touch on later.

I now call on Mr. Lawlor to begin the proceedings for this afternoon.

The Chairman: Good afternoon. It gives me great delight to welcome you all here and to launch into an area particularly affecting the province of Quebec which on many occasions intrigues us all.

As far as being a poet is concerned, no one knows what that is, so you can get away with it; however, it totally undermines your faculties, particularly in the whole political spectrum. I used to enjoy enormous authority, now everyone thinks I am being asininaltial and of no address. However, there are recompenses for that and I await posterity to vindicate whatever might happen.

Claude Vaillancourt is a modest man. Modesty and policies, as most of us know, don't go well together. It is better to be a little truculent on most occasions. In any event, I have found over a long period of time that, this is the way of attracting press coverage, particularly if you may render yourself completely ridiculous on most occasions.

While at lunch, the delightful lunch we had together today, I sought to extract numerous items of information about Claude Vaillancourt's background and history, and he said no, he was not anxious to do that, and I think that is highly commendable. Not only does it shorten the introduction, it gives some sense of the quality of the person.

He was elected in November of 1976; he is the Deputy Speaker of the Quebec National Assembly. He is with the Parti Québécois. I have a particular affinity to him because he too is a lawyer, working in the field of trade union law and handling criminal work arising out of that field, which tends to grow more extensive. As a matter of fact he told me he went to court in the last few weeks in order to freshen himself up and found himself a total tyro before the judge, trembling and having lost that skill which comes with constant working in the courts.

He is the member for Jonquière, where the Arvida plant of the Aluminum Company of Canada is located; you can see the tie in with the particular kind of work he is doing.

As to format this afternoon, Claude will read his paper—he will be reading it in French—and then there is a presentation on the screen that will last for 15 minutes or so.

Then, having finished that portion of the seminar, I have been asked to say a few words about the functioning, which is somewhat unique, of the office of the Ombudsman vis-à-vis the select committee of which I happen to be chairman. I know of no other jurisdiction with a similar kind of animals, as we are beginning to engender, and with that in mind then we will go to a general questioning as that particular matter finishes.

Now just one other word on Claude Vaillancourt's paper. He has asked me to make reference to the fact that the heading "Committees for the Redress of Grievances" is not strictly speaking accurate, that there is a mode of procedure in the Quebec House which has some parallels or analogies in European Parliaments for a kind of questioning of ministers designated by the Opposition, done on Friday's for three hours. He will describe the peculiarities of that particular type of petitioning. I suppose you can call it that in the broad sense. I therefore ask you to receive and appreciate the paper of Maitre Claude Vaillancourt.

[*Translation*]

Mr. Vaillancourt: Mr. Chairman, Speakers and Presidents of the various assemblies, parliamentary colleagues, ladies and gentlemen.

I would like to start by reassuring the Chairman of this Assembly that even if I am an elected member of the Parti Québécois, I do not intend to talk this afternoon about the constitutional problems that Canada and Quebec are facing and I shall try, in the course of this short presentation, to remain as modest as our Chairman found me at lunch time.

I would first like to say that the Quebec Assembly was very pleased to accept the invitation to take part in this seminar under the sponsorship of the CPA. For many years now, Quebec has considered it not only a pleasure but also a duty to attend and take an active part in most of the events and activities organized by the Commonwealth Parliamentary Association and our presence here today demonstrates, I think, very clearly that our interest in the CPA is still very much alive. We are also pleased to be here today since the organizers of this seminar—and we wish to congratulate them for this—have decided to emphasize the work of our parliamentary committees, among the various topics to be discussed in the course of the next few days. This decision is most interesting for parliamentarians since, in each of our parliaments, committees are taking on an ever-increasing importance, both because of the volume of matters entrusted to them and the increasing variety of the issues they are called upon to consider.

Even if my intervention deals mainly with a recent innovation we have introduced in our Assembly, that is the question with debate, I shall first talk about the progress made during the past few years within our parliamentary committees and say a few words on the new means that the Quebec National Assembly has put at the disposal of parliamentarians to improve the monitoring of government and public administration. Indeed, it is in that context that progress took place and that the so-called question with debate procedure was introduced.

I mentioned, at the start of my presentation, the increasing number of matters entrusted to our parliamentary committees, at least in Quebec. If statistics mean anything, I would like to mention that, in 1978, the National Assembly debates were published in 5,799 pages, whereas those of the parliamentary committees covered, believe it or not, 11,631 pages. Is it really necessary to remind you that the number of standing elected parliamentary committees increased, over the past few years, from 16 to 27, which corresponds more or less to the number of ministries we have in Quebec, with some regrouping for related matters and additions such as the Professional Corporations Committee.

Legislators had two major concerns throughout the ten-year period of reform of our parliamentary procedure: first, increased participation by M.N.A.s in parliamentary work and, secondly, providing tighter control over the political and administrative activity of the executive power.

In the context of my presentation, I will only talk briefly of the increased participation by M.N.A.s in the work of our parliamentary committees by mentioning the latest innovation to be introduced in our National Assembly, that is the addition of a second category of participants called "interveners." Each of our parliamentary committees has about ten members who have the right to speak and the right to vote, and ten more members, so-called interveners; the latter have the right to speak like the members of the parliamentary committee, but they do not have the right to vote. Theoretically at least, this measure allows every member of the National Assembly, either in his capacity as a member or in his capacity as an intervener, to take part in the work of four or five parliamentary committees, which is an answer to the frequently expressed wish of so-called back benchers.

I would also like to draw your attention more particularly to some of the means Quebec parliamentarians have at their disposal to ensure fuller control over government activities. These are new tools which were added to the more traditional ones such as the oral question period written questions as well as requests for the production of papers.

It would be worth mentioning that approximately ten years ago, we abolished the possibility of raising a question of urgency through a motion for adjournment as well as the possibility of censuring the government by submitting a grievance every time it was suggested the House should go into Committee of Supply. In our new Standing Orders, this procedure has been replaced. Thus, after having submitted a one-hour notice to the office of the President before the start of a session, an M.N.A. can ask directly, by means of a motion, that an emergency debate be held on a specific and important matter.

However, it is the President alone who will decide if the motion will be entertained and his decision is based on certain specific criteria. If the debate on the motion relating to urgent matters takes place, it must end that same day before six o'clock and there is no vote. Moreover, after one full day's notice, opposition M.P.s may propose six motions of censure in the course of one session. These motions of censure are privileged and to avoid monopolization of these motions of censure by an opposition party, the Standing Orders of the National Assembly adds that the President sees to it that the motions of censure are equitably distributed between the recognized Opposition parties, while taking into account the presence, in the Quebec National Assembly, of MNAs with no affiliation or independent MNAs. In our view, this is an excellent innovation as the government knows how often it will be put to the test; we know that tonight the federal government will be subject to such a motion of censure and it is an excellent innovation because the government knows how often it will be put to the test in the course of one session and the Opposition is sure of the number of occasions on which it would be able to censure the executive power.

In addition to these control measures the legislature has over the executive power, there are the Wednesday sessions in which, for some time now, MNAs' motions have been dealt with and also many debates held at the end of the day after adjournment when a Member is not satisfied with the answer given him in the National Assembly by the minister. But all this is not sufficient. The National Assembly of Quebec wanted to experiment with another type of procedure popular in Western Europe and which, until now, had not fared well in the parliamentary system of British origin. This is the interpellation procedure which we, in Quebec, have called the "Question with debate".

Except when considering a ministry's votes, or in the daily question period at the National Assembly, and even then in a very brief manner (since the question period in the National Assembly is limited to forty-five minutes as in most Canadian legislatures) MNAs seldom have occasion to make an in-depth study of a government policy, of the management of a ministry, of the merits of a minister's strategy. We consider the question with debate a means of making up for this discrepancy; this is undoubtedly the main innovation we have brought about over the past two years.

In a classical parliamentary system, interpellation is the typical procedure for obtaining information and exercising control. The form used in Quebec differs from the one generally used in Europe which eventually leads to a vote of confidence with respect to the government. This is because our system, which is based on British tradition, already gives us considerable means to censure the government's actions. We have therefore opted in favour of the other formula also used in some countries, according to which a member of government is invited to appear before a parliamentary committee to explain matters of general interest.

The main objective of this parliamentary committee, convened for the purpose of dealing with a question with debate, is to provide information and not to censure the government. Thus, in order to emphasize our objective of obtaining information and to avoid any ambiguity, we have chosen to call this type of procedure a "question with debate" rather than an "interpellation".

I must add that another amendment to the Standing Orders of the National Assembly has undoubtedly been instrumental to the introduction into our parliamentary mores of this question with debate. In fact, for two years now, parliamentary activity at the Quebec National Assembly has been concentrated into three busy days and at hours that are more appropriate for parliamentarians, which eliminates Friday

morning sessions held between 10 a.m. and 1 p.m. Hence the idea of taking advantage of these free Friday mornings by convening a parliamentary committee to deal with a question with debate. The procedure to introduce this question with debate is very simple. In fact, our Standing Orders stipulate that an MNA shall place the motion of question with debate on the paper stating he wishes to question a particular minister on a matter of general interest which falls within the administrative jurisdiction of the minister.

For example, the last motion put on the paper recently was the following:

"Standing Committee on Agriculture. Question with debate raised by the MNA for Brome-Missisquoi addressed to the Minister of Food and Agriculture on the following subject:

The government's attitude with respect to conflicts between unions and co-operative movements in the agricultural sector at the present time in Quebec".

Therefore, before the day's business is called at Thursday's session, the President of our Assembly announces the question with debate which will be called on Friday of the following week and the committee which will have to deal with it, as well as the subject mentioned in the notice; this announcement is tantamount to having the minister summoned by the parliamentary committee. The question with debate will be discussed during one session only which will be held Friday, between 10 a.m. and 1 p.m.

If, as is frequently the case, there are many notices of questions with debate, the President of the National Assembly will determine the order in which the questions with debate will be discussed by taking into account the order in which the notices were placed on the order paper, their distribution among the various Opposition parties, mindful of the fact that there are, in the National Assembly, MNAs who are not affiliated to any recognized political party. In the Quebec National Assembly, a recognized political party must have twelve elected Members or it must have obtained a popular vote of more than 20 per cent at the previous general election. I know that this is a present-day problem at time, because at the federal level there is a party trying to obtain official or at least tacit recognition as a political party with all the means given to it by the Standing Orders of the House of Commons. I'm sure the MNA for Terrebonne who is here today has already witnessed the first steps taken by this political party. I must add that there cannot be any question with debate between sessions.

These debates are run according to the regular rules of procedure governing our parliamentary committees. However, at the beginning of the session, the committee chairman normally gives the floor to the member who raised the question with debate; then the minister is given equal time to answer the member. Throughout this parliamentary committee session, these two people will be given priority to speak, but this must not be considered as an exclusive right because all members of the parliamentary committee present, as well as the intervenors, let us not forget, also have the right to speak. At the end, the minister will be asked to conclude.

An interesting new element was added a few months ago to these parliamentary committee sessions with debate on Friday mornings. They are now held within the Chamber of the National Assembly itself, and this is the only parliamentary committee within the National Assembly to do so, since all other parliamentary committees must meet in specifically designated rooms.

The interesting thing about this is that for the past few months, the proceedings of the Quebec National Assembly have been televised live throughout most of Quebec. A fair percentage of the Quebec population still has to be content with hearing these proceedings after the fact, that is a few days later. You will understand right away that the parliamentary committee with debate is the only committee which has its proceedings broadcast live, thus enabling the majority of Quebecers to hear the debates which will take place during the session of the parliamentary committee. This worthwhile initiative could not have been better received since the debates which take place are extremely interesting in general and should be brought to the attention of the public.

The formula of the question with debate has proved very successful. This success is due to the importance and diversity of the issues discussed. In 1978, for example, from the month of March on, sixteen parliamentary committees used the question with debate. The topics debated, to name only a few, included

the application of the legislation establishing the medical insurance commission, the food policy of the government, advertising paid by the government with public funds, the government's plans with respect to administrative decentralization, preparations for the next round of negotiations in the public and para-public sector, the job situation in Quebec, the government's failure to keep its election promises in the area of labour relations, and so on.

In 1979, six questions with debate came up for discussion and many others are currently on the order paper. These will be turned over to the appropriate committee in the coming weeks and months. Since the National Assembly did not sit between June 22 and October 9, the parliamentary committees which study these questions were unable to meet because of the standing order governing such matters. These few statistics clearly show that the question with debate is very much alive and meets the information and control needs, not only of the parliamentarian but of Quebec citizens in general.

It is often said that a picture is worth a thousand words. Therefore, we thought it would be a good idea to give an audio-visual presentation lasting only a few minutes. This video-cassette presentation was put together by our radio and television debate service and provides a few excerpts from a session held last May 25 at which time the question with debate involved the indifferent attitude of the government toward claims by the Council on the Status of Women. Appropriately, the debate was requested by a woman, the Honourable Member for Acadie and involved another woman, the Minister of Consumer Affairs, Co-operatives and Financial Institutions who is also responsible for the status of women. Appropriately again, the debate was chaired by another woman who is a colleague of mine, as well as the Vice-President of the National Assembly and M.N.A. for Vaudreuil-Soulanges. With your permission, I would like to show this video-cassette. It will shed some light on the atmosphere in which sessions dealing with a question with debate take place on Friday mornings.

In conclusion, I would like to thank you very much, on behalf of the entire Quebec delegation, for your kind attention and say that this type of seminar on parliamentary committees or other subjects is an extraordinary undertaking enabling parliamentarians from the different legislatures to benefit mutually by recounting their own experiences.

Thank you very much. I hope you will enjoy the video-cassette which we are now going to show you.

Mr. Comtois: The Standing Parliamentary Committee on Consumer Affairs, Co-operatives and Financial Institutions convened at the request of Mrs. Thérèse Lavoie-Roux, Liberal M.N.A. for L'Acadie. The question with debate was addressed to Mrs. Lise Payette, Minister responsible for the Council on the Status of Women. Subject under discussion: The indifferent attitude of the government toward claims by the Council on the Status of Women.

[VIDEOTAPE STARTS]

[Translation]

I'm Charles Deblois. Welcome to our usual Friday morning gathering on location for the National Assembly proceedings. Today we are bringing to you the proceedings of one parliamentary committee—the Standing Parliamentary Committee on Consumer Affairs, Co-operatives and Financial Institutions. Let me remind you once again that a Parliamentary Committee is a kind of mini version of the National Assembly. It is composed of approximately ten M.N.A.s, the representation being proportional to the party standings in the National Assembly. Once again, the formula of the question with debate enables any member of the Opposition to question a member of the government's Executive Council. Members are sometimes accompanied by senior officials who have the right to enter the blue room to help the minister answer questions on the current government policy regarding the status of women in Quebec.

The Chairman (Mrs. Cuerrier): The Standing Committee on Consumer Affairs, Co-operatives and Financial Institutions is meeting this morning to discuss the question with debate raised by the Member for Acadie with the Minister of Consumer Affairs Co-operatives and Financial Institutions. The topic of the debate is the indifferent attitude of the government toward claims by the Council on the Status of Women. I would like to remind you before we start that for these debates we are subject

in particular to the terms of Standing Order 162A regarding the right to speak and the right of reply of participants.

In this instance, the Member for Acadie has, like the Minister, a privileged right to speak. The time allotted to the Member for Acadie and to the Minister to exercise her right of reply is limited to twenty minutes each. We can then proceed, bearing in mind that that a privileged right to speak is not an exclusive right to speak.

[*Debate*]

M.N.A. for Acadie: Good morning, Madam Chairman; good morning Madam Minister. I am extremely pleased this morning that we have the opportunity to discuss the report "Equality and Independence" which was submitted by the Council on the Status of Women to the Minister responsible for the Council.

The report was submitted to the Minister on September 20, 1978. Page 17 contained a statement to the effect that the Council on the Status of Women had reached the conclusion that only a political will formulated on the basis of an overall approach to the status of women in Quebec and an analysis of their problems could bring about the desired changes.

Obviously Madam Chairman, the fact that we are debating this issue today appears logical enough, considering that the Minister had promised us in November that the government would have already adopted a plan of action which would be submitted to the National Assembly. The Minister had promised a plan of action for November 15, 1978. Now, eight months after the report was tabled, we are still without a plan of action. We are still in the dark about the government's stand on this entire policy.

Mrs. Lise Payette: I would first of all like to thank the Member for l'Acadie for allowing me to take stock, so to speak, of what has been achieved with regard to the status of women. Just before we began this debate I heard the television commentators say once again that today the Minister responsible for the status of women would have to answer a question with debate. I would like, Madam, to clear up a point. I am not the Minister responsible for the status of women but the Minister responsible for the Council on the Status of Women.

That is why we have decided that it was appropriate to invite to this morning's question with debate the three Ministers who are members of the Interministerial Committee which is responsible, no longer for the status of women, but for the application of the Council on the Status of Women's recommendations contained in the report entitled: "Equality and Independence".

That is probably, Madam Chairman, an historic event since it is most likely the first time that, in this noble forum, as our colleagues call it, we have the opportunity of talking for nearly three hours on the subject which brings us together today: the status of women. It is a subject which has never really found a place within these walls until, I believe, the election of the Member and of the other women who are members of the National Assembly and it is a morning where we find more women seated in these chairs than there have ever been in Quebec, even if they are not all elected. It is the phrase "autonomy of women" which must find a concrete application in all the fields where women are to be found. I will put an end to my comments here, Madam Chairman.

M.N.A.: Madam Chairman, personally, I prefer the expression "independence of women" for I believe it has a broader scope than "autonomy of women" and is much closer to the objective we must set for ourselves.

M.N.A.: The recommendations made by the Council on the Status of Women involve mainly four ministries; namely the Ministries of Justice, Social Affairs, Education and Labour.

Of course, other ministries are also concerned; in certain cases there are few recommendations, in others they are rather important.

M.N.A.: We could perhaps start with the four ministries I just mentioned. Let us start with the Ministry of Social Affairs which is active in many ways. Obviously, the greatest number of recommendations apply to this ministry.

The Ministry of Social Affairs has already set up an internal structure under the supervision of a person responsible for co-ordinating these measures and dealing with matters pertaining to the status of women in each branch. These persons report directly to the co-ordinator who has a direct link with the office of the Deputy Ministers and with the ministerial committee.

M.N.A.: Will the Member for Johnson kindly wait for his turn. I have a request from the member for l'Acadie, and you will have the floor next.

M.N.A. for l'Acadie: Madam Chairman, I thank Mrs. Tourigny for the information she has just given us, some of which I was not aware of. For example, that a bill on the day-care service will be tabled before the end of the year. But I would like to come back to a specific point. When people tell us of the twelve, or fourteen crisis centres which already exist, I would like to point out, Madam Chairman, that the agencies are...

Mrs. Lise Payette: I beg your pardon, the Member has just made an error. There were two last year, now there are twelve...

M.N.A.: Yes, but that does not change what I want to say. I agree that there were two and that now there are fourteen. However, these centres were set up by feminist organizations.

Mrs. Lise Payette: These centres are financed by the ministry of Social Affairs.

M.N.A.: They have had to group themselves and to submit requests. And, as I stated at the beginning, the annual grants are insufficient to ensure the permanency of crisis centres for women in distress.

Mrs. Lise Payette: Madam Chairman, this is in keeping with the recommendations of the Council on the Status of Women and in keeping with the wishes of the women who have formed groups themselves and who wish to remain autonomous within these centres.

M.N.A.: But offers that are discriminatory and were made by the government within the past few months.

The Chairman: You wish to raise a point of order, Madam Minister.

Mrs. Lise Payette: During a question with debate such as the one we are dealing with this morning, is the Member for l'Acadie allowed to cut short the recital of our achievements which I had undertaken. It seems to me that, suddenly, she does not want to hear, Madam, the rest of our statement.

M.N.A. for l'Acadie: I beg your pardon, Madam Chairman, but I believe it is my turn to speak. Your twenty minutes are up, and it is now my turn.

The Chairman: This is a question with debate. You can ask only one question at a time if you wish and wait for the Minister to answer you, or you can ask all your questions at once and the Minister can speak afterwards. It is a matter of choice as to the organization of the committee's proceedings.

M.N.A.: You know that the official committee, in proposing this debate, wanted to ask the Minister of Finance to sit in and participate in the debate. There is a fundamental reason for this. You know the Standing Orders better than we do, Madam Chairman. When it is a matter of proposing measures that do not involve expenditures, that is the use of public funds, any Member can introduce bills. But when it is a matter of expenditures, of proposing the spending of public funds, a Minister must assume responsibility for that proposal in the House.

The Chairman: I would like to point out to the Member for l'Acadie that, in accordance with the terms of the agreement mentioned earlier, she has ten minutes to conclude, and then the Minister will also have ten minutes.

M.N.A. for l'Acadie: Madam Chairman, I would like to use these few minutes to make, in all sincerity, certain suggestions to the Minister concerning the report of the Council on the Status of Women.

There is always a risk when preparing a policy or a report on the status of women, of not taking into account a large number of women, or at least of giving the impression that a large number of women are left aside, and it is with this in mind that I would like to ask the Minister to give more publicity not necessarily to the report as a whole, or to its distribution, but rather to the interpretation of its recommendations. I can assume the women who are listening to us and all others, that we will go beyond committee proceedings and press our case with the government. A little while ago, we had a demonstration of what a committee can do. We have had a report on hand since 1976, and now we hear mention of 1980 as the date at which it should give rise to concrete measures. Then, even if the same thing should occur in the committee and in other structures that have been described within the last two hours, I believe that we will reach the end of the present government's mandate with very little progress in the matter of the status of women and the improvement of the situation of women in Quebec.

Thank you Madam Chairman.

Mrs. Lise Payette: Madam Chairman, the Member for l'Acadie has trouble being a politician. She is honest once again and recognizes that the government has achieved a great deal within the last two and a half years. I will point out that she tried to lead me on...

M.N.A. for l'Acadie: You make a distinction between a male and a female politician.

Mrs. Lise Payette: I would like to say to the Member for l'Acadie that there is a difference between a male and a female politician, especially with regard to the status of women. However, I would like to tell her that she tried to have me say things that would promote the status of men, and this I refuse to do. I don't think that we are in any way depriving the people with whom we share our lives of something by improving the status of women.

However, I would like to know why she did not intervene a little while ago when the MNA for Marguerite-Bourgeois said once more, and this time with vindictiveness, that I had been assigned two guardians on this interministerial committee. I am very happy, Madam Chairman, to work with two colleagues who take the matter we are discussing this morning to heart as much as I do, and as much as Quebec men should.

Madam Chairman, I invite all the women of Quebec not to let us debate this matter alone but to make the status of women their daily concern so that Quebec women will might act with solidarity, whether or not they are members of an association, and stand together unflinchingly so that the status of women will not become a stock argument but a hope for the future.

The Chairman: That was the question with debate from the MNA from l'Acadie to the Minister in charge of the *Conseil du Statut de la femme*.

The meeting of the Committee on Consumer Affairs, Co-operatives and Financial Institutions is now adjourned.

[VIDEOTAPE ENDS]

[Text]

Mr. Lawlor: I think to give continuity to this, there are questions to Mr. Vaillancourt. I would ask people to come forward to the microphone.

[Translation]

Mr. Comtois: I have a question for Mr. Vaillancourt. You mentioned that these questions with debate would be shared among the different opposition parties and independent MNAs. Could you explain to our colleagues here how you came to recognize certain parties which did not have twelve MNAs or 20 per cent of the vote? What is the procedure whereby you recognized these parties?

Mr. Vaillancourt: This is a very good question from the Member for Terrebonne...

Mr. Comtois: We have the same problem in Ottawa.

Mr. Vaillancourt: When I came to the Quebec National Assembly, and I am still only a novice, there were only two MNAs, Mr. Samson, from Rouyn, and Mr. Fabien Roy who at that time was the Member for Beauce Sud who had what you might call vested rights. As the Quebec National Assembly now has other independent MNAs, namely Mr. Shaw and, for a few weeks, Mr. Tremblay, the former Minister of Industry, Trade and Commerce, we see that Mr. Samson's status is different from that of Messrs. Shaw and Tremblay.

I think that this goes back few years to a time when Governments, while not attempting to make any value judgement, tried to adjust the Standing Orders of the National Assembly to take the situation into account. For example: I believe that the Act dealing with the legislature was amended at least twice to take into account the results of the 1973 or 1976 elections with respect to the *Union Nationale*. So, had the Government continued to act this way, and this way, an elected M.P. or the elected leader of a party with only two M.P.s could have had the status of a recognized party; in which case their might as well not be any provisions to this effect in the Act.

I am now expressing a personal opinion: I think that governments or the assembly must respect their own laws and they state that in order to be recognized as a party one must have 12 elected M.P.s or 20 per cent of the votes cast. The National Assembly must be logical with itself, and not spend its time amending its own laws to take into account the situation of the political parties which varies each time there is an election.

Mr. Comtois: This situation could become ridiculous at one point. I am referring to the recent resignation of an MNA who became an independent and stated one week later: "I am now founding a political party". I am wondering whether this will be a recognized political party which will benefit from all the research services, participation on committees, participation in the questions with debate. Could we have your opinion on this?

Mr. Vaillancourt: I do not represent the government but the Quebec National Assembly. But I think you are right and that an example was given last week when a rule was applied according to which only the representative of a recognized political party can intervene, briefly, with respect to a policy statement made by a Minister.

What happened is that the ministerial party made its statement, the Official Opposition replied, the *Union Nationale* also replied as a recognized party. When Mr. Samson, MNA for Rouyn-Noranda, rose to discuss the statement, the members of the National Assembly unanimously agreed to give him the floor.

But when Mr. Shaw, the MNA for Pointe-Claire, rose to do the same, he did not meet with unanimous consent. This is my personal opinion, but I think the reason members of the National Assembly agreed to let Mr. Samson talk and refused to hear Mr. Shaw is the sort of special status given over the years to MNAs from... I am sorry, I mean the former Member for Beauce-Sud; the present Member being from Rouyn-Noranda.

[Text]

Mr. Forget: As an Opposition Member in the Quebec Legislature, I would like to make a statement, or say two things really, to correct, not what Mr. Vaillancourt has said, which is a very accurate description of our Standing Orders, but the impression that some of you may have derived from the film presentation you have just seen.

First, what we just witnessed is perhaps a rather enlightened discussion of the status of women in our current legislation and government policies, but the tone of the debate you have witnessed is not at all indicative of the general tone of debate on those Friday morning question and debate periods.

Of course, that sort of subject would lend itself to a rather mild sort of discussion, but the question with debate really was intended, as far as opposition members are concerned, as an occasion whereby the opposition parties could require a standing committee of the Assembly to sit, because as you know the

normal rule is for committees to be called at the initiative of the government. When the minister has a bill or estimates to be passed, he will ask his leader to summon the relevant committee.

Now the question with debate is the only occasion in our parliament where we can require the sitting of that committee and direct a question to a minister. The tone is almost like an impeachment procedure. This is the spirit in which we have accepted this new procedure. It is an accusation of negligence, etc., and this will dictate most often a rather aggressive tone in the opening statement by the opposition member. This, I think, you will very readily understand.

The second point I wanted to make is really one that has to do with a footnote to history, if you will. How does a legislative assembly decide to amend its rule in such a way? It would seem that any government in its right mind would not accept this sort of debate or question period, lasting for three hours, because it would seem to put it at a disadvantage.

Now the way it arose is this. We used to have a Friday morning sitting, a regular sitting of the Legislature. This sitting was, I must say, rather poorly attended, both on the government side and on the opposition side. But of course the government was more open to criticism on that count and there would be a head count of missing ministers on a Friday morning which would be rather embarrassing to all the successive governments. In 1977 there was a new government that had been very vocal in making this head count before getting elected and it was felt that it was really an impossible situation for it. So it was actively searching for ways of doing away with the Friday sitting.

At that time, of a few months before, I had produced a paper on the reform of our standing orders in which this possibility had been explored, that is the question with debate, and in the negotiation that took place between the government leader and the opposition leader the formula that I had put forward and circulated to the president of the Assembly, and to the parties as well, was seized upon as a sort of workable *quid pro quo*. The government obtained what it wanted, the abolition of the Friday sitting, and we got that opportunity to criticize, at our own discretion, a given minister. This is interesting to know, because otherwise it seems like a gratuitous development. It was not. It was a the production of a rather tight bargaining between the two parties.

[Translation]

Mr. Vaillancourt: I agree with my colleague on two points. The parliamentary committee that has just been mentioned is effectively the only one that can be called on the initiative of the opposition, since, from the moment the question is put on the order paper, the chairman must necessarily summon it. This involves a notice of meeting ordering the committee members and, at the same time, the Minister and his representatives to appear on a given day before the Committee to answer to the "interpellation" made by the Official Opposition, or even by an independent member of Parliament.

I also agree with my colleague when he says that the tone of the debate which you witnessed in part is not always the prevailing one either in our parliamentary committees in general or in that particular one. I am certain that this is not due to the fact that there were only two women facing each other and that the committee was chaired by a women. Nevertheless, as my colleague stated, the subject was very enlightened, very profound and wasn't perhaps the kind to lend itself to lively discussions as is often the case in the National Assembly and in our parliamentary committees.

Since that committee is televised and may be seen by a great number of Quebecers, I would like to add further to my colleague's comments, that the members who attend and take part in this committee must be very well prepared as regards their questions and answers, since those committees can have important electoral and political effects for all the parties taking part in the debate. That may be the reason why the parliamentary committee on the question with debate, as it is called, is a bit different from the others, since it is televised, while it is only in the future that other parliamentary committees may be televised. That question was debated about a year ago by the leaders of different parties, who decided to televise the proceedings of the National Assembly. But the proceedings of certain parliamentary committees may eventually be televised, in addition, of course, to the committee on the question with debate.

I would also like to mention that when Mrs. Tourigny, who was seated on the Minister's right, intervened in that debate, she did not intervene for the Minister, but on her own behalf, which, in this case, is an exception to the general rule, which states that in all parliamentary committees, when a federal representative appears before a parliamentary committee, he does so on behalf of the Minister, thus involving the ministerial responsibility on behalf of the minister.

An exception was made in the case of the question with debate, therefore the representative was speaking on his own behalf and didn't involve the responsibility of the minister, who was seated on his left.

Mr. Laundry: I would like to ask Mr. Vaillancourt a question concerning the chairmanship of standing committees. If I understand the system that prevails in Quebec, the chairmen of standing committees are appointed by a committee whose chairman is the chairman of the House, and those chairmen are not members of committees.

If I am not mistaken, there are about ten of them who share the chairman's responsibilities. If I am right, I would like to know how this works and what happens if the number of votes is equal?

Mr. Vaillancourt: This is a question I had to settle during a parliamentary committee debate. Quebec has a kind of bank system, a bank of nine chairmen of parliamentary committees, eight of whom belong to the government party and the other to the Official Opposition. Those chairmen are appointed by the National Assembly following a motion by the government leader, which says: "Among the members on the government side, we suggest to the House that the following members of Parliament be appointed chairmen of parliamentary committees. The Official Opposition selects during a caucus meeting a parliamentary committee chairman from among its members. It informs the Premier and the motion to appoint this parliamentary committee chairman can be brought in by either the Leader of the Official Opposition or the Premier himself. In passing, a substitute can always be found for the chairman in the event that the Official Opposition decides to replace the chairman which it has selected for one reason or another. The same applies for the government party. Since these chairmen are an extension of the presidency of the National Assembly, they must observe the same rules of objectivity, impartiality and neutrality in the exercise of their duties as the President or Vice-Presidents of the National Assembly, except that, unless I am mistaken, our Standing Orders provide that whenever the voices are equal, the chairman of a committee has a casting vote.

I was faced with a situation such as this approximately a year and a half ago and decided not to exercise my right to vote. I suspended the proceedings of the parliamentary committee. Other committee members arrived in the room at that moment and I must admit that the members of the Official Opposition and of the recognized opposition of the *Union Nationale* understood very clearly my situation. They knew that I was suspending the proceedings in order to make it possible for one or two more members to complete the ranks so that, as Chairman, I would not have to vote.

I decided not to vote on an issue which at the time was relatively important. If the issue is a minor one, I maintain that a committee chairman can exercise his right to vote. However, when dealing with a truly important issue, I prefer to abstain from voting.

Roughly speaking, these are the duties of the parliamentary committee chairman.

Mr. Dobell: I would like to ask two questions. You spoke of committees or commissions, normally composed of ten members, and of approximately the same number of non members who have the right to intervene. As you know, there is no such thing as an intervenor in Ottawa. Every member of the House has the right to intervene.

Therefore, if I understand correctly, in the National Assembly, no other members, with the exception of the ten mentioned, have the right to speak or intervene.

Mr. Vaillancourt: In answer to the first part of your question, when parliamentary committees convene to study appropriations, all intervening members have the right to speak during the committee debates which follow the budget speech by the Minister of Finance.

However, you are correct in stating that in the case of parliamentary committees which, for example, consider a bill clause by clause or hear briefs, only the committee members have the right to speak and vote and that in such instances, non-members have the right to speak, but not the right to vote. However, what can happen and what has in fact happened recently is that the committee is master of its own decisions. Somewhat like the National Assembly, the parliamentary committee has absolute power. In May or June of 1979, a motion was introduced by a parliamentary committee member asking that all members of the National Assembly be granted the right to speak. This motion was adopted unanimously by the members of the parliamentary committee, I believe with the consent of the government party. As a result, the bill was withdrawn and was never adopted.

I do not know if my colleague, the Member for Saint-Laurent, is familiar with the bill in question—Bill 3 dealing with the electoral list. It was unanimously agreed that everyone should have the right to speak.

At one time, I believe there were approximately thirty M.N.A.s from all parties assembled, including some independent members. The whole thing ended up in a sort of filibuster. The session ended and we never heard speak of the bill again.

Mr. Dobell: Can the committee members be replaced during the session following the substitution principle?

Mr. Vaillancourt: Yes. For example, during the period of time set aside for introducing motions in the National Assembly, the Leader of the Official Opposition, the Leader of the *Union Nationale* and the Premier can, on a regular basis, introduce a motion calling for the Member for Jonquière, who is a parliamentary committee chairman, to be replaced by the Member for Bonaventure or Saint-Laurent, although in this case I think they would not accept. This type of motion is adopted very quickly without discussion or debate, whether it be a case of replacing parliamentary committee chairmen or members.

Mr. Dobell: The Chairman can be replaced without consulting the committee?

Mr. Vaillancourt: The Premier or the Leader of the Official Opposition can introduce a motion in the National Assembly requesting that the chairman of a particular committee be replaced by another person. This type of motion is generally approved unanimously without debate, unless members of the National Assembly have very serious reasons for not wanting a particular chairman to be selected.

With respect to the members, I will go further. As chairmen of the parliamentary committees, the Whips of the different parties ensure that their members are present for the start of the proceedings. Supposing for example that the Member for Jonquière was absent on October 15, for discussion purposes, he can, with the unanimous consent of the committee members, be replaced by the Member for Alma or the Member for Lac Saint-Jean.

However, to truly alter permanently the list of parliamentary committee members, a motion must be introduced in the National Assembly and adopted in such a way as...

Mr. Dobell: I do not know if you are aware of this, but in Ottawa, changes such as these number in the thousands. How many changes are usually made in the National Assembly? Relatively few?

Mr. Vaillancourt: Relatively few. To my knowledge, during the 1978 session, for example, perhaps one chairman was replaced because as a result of appointments, certain chairmen became parliamentary assistants. We have very rarely had to replace parliamentary committee members. However, when we have had so, it was done quickly.

Mr. Dobell: My second question concerns the question with debate. These debates always take place in the House and, for this reason, they are televised. That means that there can only be one debate per week.

Mr. Vaillancourt: Yes, there can only be one question with debate raised per week and only during the sessions.

Mr. Dobell: Only during the sessions?

Mr. Vaillancourt: That's correct. However, I must say that the proceedings of the first parliamentary committees using the question with debate were held in the rooms normally reserved for parliamentary committees. However, a few months later, the members decided unanimously to hold their meetings from that moment forward in the National Assembly, a decision which now makes it possible to broadcast the proceedings live.

Mr. Dobell: Was the move made to allow for the possibility of televising the proceedings?

Mr. Vaillancourt: I think that this was the fundamental and the most important reason which led the various political parties to agree to hold the proceedings in the National Assembly.

[Text]

The Chairman: Any further questions? That is excellent; it indicates something that we will have to give close attention to here at Queens Park. The world is full of innovations; one of them is a testing period for the office of the Ombudsman of Ontario.

The Ombudsman's office has been under constant court challenge as to its jurisdictional ambit, which, I think, has been resolved now in favour of the Ombudsman having his power asserted over the various agencies, boards and commissions of the Province. Apart from that there have been, in my opinion, very substantial gains made for his recognition.

The office, as we all know, is a new office. It has undergone growing pains in many jurisdictions and is at present, even in Great Britain, being tested. We have had a peculiar test here, which may interest you profoundly, because you may eventually be up against similar circumstances. As a result of an expropriation of vast portions of land in the area of Pickering, Ontario, just outside of Toronto, for the purposes of an International airport, various complaints arose from the people whose land was taken one way or another, to the Ombudsman, Mr. Maloney. He launched a major investigation into the whole thing and came to the conclusion that there was a certain amount of misstatement, hectoring, and various devices used to twist people's arms. He brought this forward to the government to rectify.

The minister of housing, Mr. Rhodes, rejected it. There were hundreds of properties involved, and millions of dollars, and it is sitting there today unresolved. This was three and a half years ago. As a result of that, the Select Committee on the Ombudsman was set up as a kind of bane or lightning rod or some form of distraction to bring some kind of accommodation to the parties, by acting as a forum in which they could speak to one another and try to come to some accommodation. Certain things were set up as a result of that episode but it is a long story and I won't go into it. Since that time, that committee has continued, and we envisage ourselves as a liaison between the House itself and the Ombudsman's office.

Is such a committee necessary? I am convinced it is and that every jurisdiction will eventually come to it. There is such a committee in Great Britain. The British committee, of course, is different because of the role of the M.P.s with respect to the Ombudsman, for there everything is siphoned through them. We visited them when they were in session, and the Ombudsman appeared. In Sweden, there is also such a committee; and as well, I believe there is one in Denmark. In Israel there is such a committee of the parliament of that country. But all these perform differently from ours.

First of all, in the Scandinavian countries, the status, the sense of prestige, the almost idolatry that surrounds the office of the Ombudsman is something quite distinctive and something which is a fundamental flaw here, that we don't really understand. The office has such integrity, or is supposed to have, that it won't withstand, in those countries, an attack or a refusal by a government or a minister to subscribe or to give credence to what the Ombudsman has recommended.

If a minister refuses to do that, then it may very well be that the Ombudsman would withdraw from office. Certainly, if the Committee of the parliament directed any criticism against the Ombudsman, he would immediately resign. That is not the way our institutions work, nor do I think they should work similarly.

In our committee, for instance, we don't hesitate to take issue where the Ombudsman's report contains a critique of a department. We side in, on occasion, not very often, with the minister of the crown and we check the Ombudsman.

We do that, I would say, with greatest hesitancy in the world, after great consultation. First we have hearings. When the House is not sitting the committee comes into session. The Ombudsman himself and quite a number of his staff appear and we take the cases one by one and go over them in depth. They set them forth first, but we refuse, basically, although we have made exception to this, to hear members of the public whose cases are before us. We will not accord an appeal, we do not wish to act in that particular function. The Ombudsman presents the grievances and sets them out, the ministry appears at the other end of the table and gives the counter arguments.

We try to establish some balance between them. The basic context should be that no one is infallible and the Ombudsman nods on the occasion like anyone else. He just nods less often, we hope. If we can sustain him, we will, give that office the position of prestige.

There was great resistance to this along the line and for a long time, and particularly, as I say, from various boards and commissions having to beholden at all and answer, even to appear before us. But resistance came most of all, of course, from the executive, from the cabinet heads; their determination, self-determination, prestige is at stake also.

What's happened is a very curious thing. In any event, we present our report to the whole Legislature, of course, and we have recently asked for its adoption for a very specific reason, that we want it voted on. Once it is voted on, we feel that it is fairly mandatory.

Now we have some trouble with our Attorney General, who argues with us that it is not binding. Despite the fact that the Ombudsman is a creature of the House wholly, and wholly beholding to the House and not to the government, as we all know, nevertheless what the House rules as accepting or rejecting (usually accepting) his recommendation is not binding upon the ministry involved.

We would rather not get into that constitutional quarrel just at the present time and we shy away from it, but the Attorney General says nothing is binding upon a minister of the crown unless it passes through the House by way of legislation and not by way of a vote of the House arising out of our report. It is a tricky point but it is part of the overall indetermination of this particular office. Where it will all lead to I am not sure at the moment.

In any event, much of our difficulty has been resolved informally and it is better, I think, on the whole, to resolve quarrels informally. In the major complaints arising against the Workmen's Compensation Board of Ontario, there have been many where the Ombudsman would say do thus and thus, review this case, give greater cognizance to what the psychiatrist involved had to say. That has been resisted, fought against and rejected all along the line. Now the Workmen's Compensation Board has come before us and said we accede, we accept. If the matter is brought before the Ontario Legislature and adopted by the House we will do whatever the Ombudsman feels, having gone through the sieving or screening of your committee, is just and proper to do in the circumstances.

Thus many of our cases have been removed and the thing has been left much more simple. As a matter of fact, our work load is going to decrease very shortly and we are all gratified at that—I mean the \$50 a day is maybe all right, but it is not compensation that we are concerned with at all.

This summer, I think, over the previous year, we cut our sitting time in half. This has become a general phenomenon across the board, with the Health Disciplines Board, various rental review committees, commercial law review panels and what not—there seems to be a general bowing of heads, if you will, on it; and that seems to me enormously and eminently sensible. Therefore I would say the committee seems to have, and this may not always be the case, a certain efficacy, which is gratifying.

Now that is what has happened in Ontario and where we stand at the present time. There could possibly be a challenge from some minister some afternoon, saying, No, I am just not going to do it, or some committee, at which time we would have to determine what other resources we had. But Ombudsmen

by large have no sanction, and we try to provide some sanction to his operation. I think if you had spoken to him you would find that he too was deeply gratified.

If there are any questions I would be pleased to try to answer them.

Mr. Cunningham: I have a brief question.

The Chairman: There is a brief question.

Mr. Cunningham: I am sorry, I missed part of the session. My question is who appoints the Ombudsman and what part of the select committee plays in that appointment or in the approval of the appointment. I am sorry if that point was dealt with before I came in.

The Chairman: When the first Ombudsman of Ontario was appointed he was appointed through the auspices of the government wholly, except that, in a subterranean fashion, we were consulted. It was a totally unanimous choice; it wasn't that there was any question, it was accolades; there was no grudging aproval to that particular person.

The recent appointment of Donald Morand, a former Supreme Court judge of the province of Ontario, was again telegraphed to us, et cetera; but I felt that if any single member or any party objected, and objected fairly strenuously, he would not have been appointed, because there is a recognition that he reports precisely to the Legislature as a whole and is in a totally unique position. There is no other office like it that solely has the authority over, and is beholding only to the whole Legislature. So it has to be unanimous.

Mr. Cunningham: Technically he is appointed by the government.

The Chairman: Technically that is right. Any other questions? Well we shall see you at 6:30. Thank you.

The session adjourned at 5:45 p.m.

MONDAY, OCTOBER 15, 1979 - EVENING SESSION**Host and Chairman:**

Hon. John E. STOKES, M.P.P.,
Speaker of the Legislative Assembly of Ontario

Guest Speaker:

Hon. Senator Allister GROSART,
Speaker of the Senate of Canada

Guest Speaker on main presentation:

Hon. Herr Dietrich STOBBE
President of the Bundesrat
of the Federal Republic of Germany, and
Governing Mayor of Berlin

Topic:

Federalism in Germany

Monday, October 15, 1979

Evening Session

—Summary—

Federalism in Germany

Herr Stobbe prefaced his remarks by noting the great interest in his country in the Canadian practice of federalism, and Canadians' interest in West Germany's federal system. He then sketched the basic division of powers in German federalism: essentially, legislation is the prerogative of the central government while the administration of policy falls within the jurisdiction of the *Lander*.

Herr Stobbe explained the composition and the nature of the Federal Council, the *Bundesrat* (the Members of which represent the *Land* governments) and the role it plays as a link between the central government the *Lander*. He also emphasized the significance of the Basic Law in preventing an excessive concentration of power in the central government.

The final points raised by Herr Stobbe concerned the growing influence of what he termed the "third level of government": commissions and committees with representatives from the central and *Lander* governments. These organizations are necessary to ensure proper consultation and cooperation, but they raise serious problems, not the least of which is a diminution of parliamentary authority.

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
MONDAY, OCTOBER 15, 1979**

The seminar resumed at 7:15 p.m. in the Members' Dining Room.

Hon. John E. Stokes: Mr. President, parliamentary colleagues, I told you this morning it was my hope the seminar would proceed as informally as possible. By now I hope you are considering this building, for this week at least, to be an extension of your own parliamentary buildings.

There are so many distinguished members of the Commonwealth Parliamentary Association here this evening who deserve recognition, I am very reluctant to begin the list. If I read them all, I am afraid we would not get out of here until the small hours of the morning. We may not get out until the small hours of the morning, but I don't want it to be because I am reading this long list.

Premier Hatfield, we are particularly honoured that you took the time, sir, from your busy schedule to join the seminar and I know that your remarks tomorrow will be heard with great interest.

I repeat the welcome to our delegates from outside of Canada. You do us a high honour by joining our CPA activities in Toronto this week.

Every province in this country is represented at the seminar. I do, of course, regret the absence of representation from our two northern territories. The Yukon Legislative Assembly is in session at the present time and that of the Northwest Territories has not yet reorganized following its most recent elections.

I would be remiss, however, if I did not call attention to the presence of Senator Madame Renaude Lapointe, who has just retired as Speaker of the Senate of Canada. I was going to refer to her as a gracious lady or a gracious woman, but I think I must call her a gracious person because on Thursday of this week she will return to the Senate to help mark the fiftieth anniversary of the decisions which made women persons for the purpose of admission to the Senate.

Senator Lapointe, you relinquish your chair to a long-time friend of the Commonwealth Parliamentary Association, Senator Allister Grosart.

This is the first occasion that Mr. Speaker Grosart and Mrs. Grosart have visited Queen's Park since the Senator's appointment to the Chair. I would like to call on him briefly to bring us greetings from the Parliament of Canada. It is, of course, appropriate that he is here for another singular reason. It was Senator Grosart who was the originator of these seminars, and this week we are enjoying our fifth year. For the past five years members have gathered to discuss various aspects of parliamentary practice.

Mr. Speaker, the seminar is now a Canadian parliamentary institution and we welcome you and Mrs. Grosart here this evening. Would you care to say a few words, sir?

Hon. Senator Grosart: Mr. Speaker Stokes, at the moment I am quite sure the most acceptable answer to your question, would I care to say a few words, would be, no. On the other hand, this is an occasion; you have asked me to say a few words; therefore, if I may, I would address you, sir Your Excellencies, The Premier, Speakers, and fellow parliamentarians.

I am a new boy, of course, to this very, very distinguished company of Speakers of Legislatures. As a new boy it befits me to be humble in the presence of so many distinguished parliamentarians, so many who have, in their own Legislatures in Canada and elsewhere contributed very greatly to this concept that is so important to us all, the concept of representative, democratic, parliamentary government.

I had the honour, of welcoming in Ottawa and spending an hour with the distinguished President of the Bundesrat when we discussed the great problems that he will be discussing with you later this evening, problems of reconciling the interests of political entities which have come together for one reason or

another, at various times in history, to form an association which they have called a confederation or a federation, and there are other names for it.

I am one who has been interested for a long time in a Commonwealth of Nations, as it is now, around the world, and now have the opportunity, Mr. Speaker Stokes, to sit between distinguished representatives of two Legislatures of our Commonwealth, Speaker Ada May Edwards from St. Kitts-Nevis-Anguilla—she and I have a little discussion as to whether it should be pronounced “Nevis” or “Neevis”—which I have visited; a small legislature, with not more than 10 members, but one which has a very distinguished history, a long history, as old perhaps as the history of the Parliament of Canada.

The other representative, of course, is Honourable Christopher Fitih, from Ghana. Here we have, in the presence this evening of the President of the Bundesrat, the Leader of the Government in the Legislature, the Parliament as it is called, of Ghana; we have with us representatives of two of the most exciting experiments going on in the world today in this whole field of representative parliamentary government. I have said before, and repeat, it is probably one of the most sophisticated attempts anywhere in modern history to establish a federal system which will fully reconcile the interests and the responsibilities of the entities, formerly independent entities, which have come together to form a federation; a most sophisticated attempt.

The one which offers the longer basis of study is, of course, the system of government that has developed in the Federal Republic of Germany.

Also interesting is a very new experiment in Ghana. On September 24, 1979, a great new experiment started in this Commonwealth of ours. Fascinating. The ministers there do not sit in the Parliament. They are responsible to Parliament. It is a mix of the American congressional system, the Westminster tradition and certain very deep-rooted African concepts of government. We wish you the very best of luck, sir. You are welcome back to this Commonwealth.

I do recognize the fact Mr. Speaker Stokes said my remarks would be brief. On one occasion, not long ago, I was speaking to a service club and as I rose I said to the Chairman, “Mr. Chairman, how long can I speak?” It was a luncheon meeting and he said, “You can speak as long as you like. The rest of us are getting the hell out of here back to business at the club.”

I know that is not quite the situation tonight, but we do have the great privilege of hearing from the Honourable Dietrich Stobbe, a man of great distinction, world renowned in this club of ours, this Speakers’ Club, because he is the President of the Bundesrat which is an unique institution.

Interestingly enough, it almost caused the abolition of the Senate of Canada. It seemed to be working so very well because it is the chamber to which the members are elected by the government of the Lander.

What we were faced with in the Senate of Canada not very long ago was a suggestion on the part of the leaders of the Liberal Party that the Senate should become the House of the Federation, which is much the same thing. The Conservative Party leaders decided they would go along with the same kind of thing if it was called the House of the Provinces.

Thank God we survived it, and it is one of the anomalies that came out of the constitutional situation in Canada today. The dear old Senate is always either on the brink of extinction or of radical change beyond recognition, and suddenly, and this so often happens in constitutions, a situation developed, and the most important thing in Canada for a moment, at least, was the adequate representation of the province of Quebec in the cabinet of Canada. How could you have achieved it without representatives from the Senate?

It was possible then to find in the Senate, ministers with departmental responsibilities who could carry on. It hadn’t happened for years. Some had forgotten, of course, that there was a time in the Senate of Canada when we had two Prime Ministers who were Senators, but that is way back.

We will be listening with the very greatest of interest to what Herr Stobbe will tell us about federalism as it has been developed in the German Federal Republic. We will be interested in hearing something of the

magnificent way in which you have solved problems that we ourselves have not yet solved. We will listen to you with interest, admiration and a great deal of envy.

Hon. John E. Stokes: Thank you, Mr. Speaker Grosart.

The Fifth Canadian Regional Seminar is fortunate this year because of the coincidence of the visit of Herr Dietrich Stobbe, President of the Bundesrat, the Upper House of the Federal Republic of Germany.

So often, during the constitutional debate which has taken place in this country over the past several years, we have heard references to the German federation but rarely have elected persons had the occasion to study this question in any great depth. I was therefore gratified when President Stobbe agreed to speak to us on the subject of federalism in Germany.

The remarkable economic achievements of the Federal Republic of Germany cause us to wonder if it is the constitution or your form of industrial relations or the tremendous energy of your people. You are obviously doing something right, sir.

President Stobbe has achieved his high office at a very young age. He is 41, married, has two children; he became a member of the Bundesrat in 1973 and was elected as its President for a period of one year as the governing Mayor of Berlin. He will continue to exert a strong influence and authority in the German Federation.

Mr. President, I know that all of us are looking forward to hearing your remarks and I hope you won't be the least bit inhibited as a result of Senator Grosart's comments with regard to apprehension about emulating your system here in our federal government. I am sure all members, all parliamentarians present are looking forward to what you have to say.

Ladies and gentlemen, Herr Stobbe; Mr. President, would you address us at this time?

Hon. Dietrich Stobbe: Mr. Speaker, distinguished parliamentary colleagues, ladies and gentlemen, let me begin by expressing my sincere thanks to you for the very friendly reception. I am most grateful for the opportunity to be with you tonight and to attend your seminar. It is, I am sure, an excellent vehicle for promoting mutual understanding and the furtherance of good relations between all who take part, their Parliaments and their countries.

I am convinced that Members of Parliaments from all countries should maintain close and frequent contacts with each other. After all, we are all confronted with very similar problems. Although we do not always see them in the same light and have, in our respective nations, adopted different approaches for their solution, the fact remains that we can only hope to resolve common problems by joint efforts.

Parliament, as a political institution, could be described as a kind of control and amplifying station where the aspirations of the majority of the population are transformed—through equitable democratic processes—into appropriate political measures. Many different forms and shapes of democratic parliamentary systems are conceivable and, indeed, there exist quite a variety. Canada and the Federal Republic of Germany are among those nations which have opted for a federal system.

Your on-going constitutional debate is watched in my country with increasing interest. German newspapers report quite extensively about the problems Canada is confronted with these days. Many Canadian politicians and scholars come to visit us and collect information about the functioning of our constitutional setup. Particular interest is taken in the structure and the working of our federal system.

And it is not at all surprising, I think, that the Canadian interest to learn more about us in this respect should have stimulated us to have, in return, a closer look at the specific relations that exist between federal and provincial affairs in your country. In fact, a main purpose of my visit to Canada is to learn more about your system.

Let me express, Mr. Chairman, my sincere gratitude, especially to those members of the Senate and the House of Commons, as well as members of provincial parliaments and governments who so graciously assisted me with all sorts of information and very useful comments.

I have been asked to address you tonight on some aspects of the relationship between federal and regional affairs in the Federal Republic of Germany, as far as legislation is concerned. While I am delighted to comply with this request, I am very much aware of the fact that meaningful comparisons between different constitutions are not easy. I am even more aware, and I am speaking in political terms now, that it seems almost impossible to apply or to transplant the constitutional system of one country, or parts of it, to another. So, Mr. Chairman, I should like to describe and to comment, but I won't recommend.

In Germany, federalism can look back on a long tradition and, indeed, there have always been federal elements in the political structure of my country.

If one compares the Federal Republic of Germany with other confederations, one notices differences of a rather fundamental nature, particularly with regard to the distribution of responsibilities between the federal government, known in Germany as "Bund" and the various states called "Land" or in the plural "Lander". In my country, the enactment of legislation falls almost exclusively within the federal jurisdiction and is, therefore, dealt with on the federal level, while the administration of everyday affairs is left to the Lander. Hence, the federal government plays the dominating role in the legislative process.

The jurisdictional autonomy of the Lander pertains above all to cultural matters like schools, universities, museums, theatres and other cultural concerns. In all these respects the federal government is rather impotent—with one exception: it can set general guidelines for university education.

Apart from culture and education the Lander have legislative competence for the police force, the laws governing municipal affairs, for planning and budgeting on the Lander level. All other legislation comes from the federal capital.

In the sphere of implementation and administration on the other hand, the federal government's responsibilities are confined to a few sectors only: the armed forces, the railway, the postal services, the diplomatic service and the Federal Labour Office. All other administrative matters devolve to the Lander. In other words, both federal and state laws are implemented by Lander authorities—with the few exceptions pointed out above.

The special characteristics of the German constitutional system are also reflected in the composition of the representative body of the Lander on the federal level, known as Federal Council or, in German, Bundesrat.

The following elements are typical of the composition of our Federal Council. First, the Federal Council consists of members of the Lander governments. As a result there are no elections to the Federal Council. Each Land government decides for itself which of its members should be dispatched into the Federal Council. As a general rule, the Premiers or Minister-Presidents, as we call them, and the Lord Mayors of the three city-states of Hamburg, Bremen and (West) Berlin are regular members of the Federal Council.

Secondly, depending on the size of its population, each Land may send three, four or five members into the Federal Council. The total membership of the Council amounts to 45.

Thirdly, each Land must vote en bloc in the Federal Council. Thus, members do not have a free vote; this means that they have to agree on a common position in their respective government and then cast an unanimous vote in the Bundesrat.

By virtue of its functions the Federal Council is an important constitutional organ on the federal level. It plays a decisive role in the enactment of federal legislation. About half of our federal laws can only come into force if the Federal Council approves. These laws are known in German as "Zustimmungsgesetze", which means statutes requiring approval.

These statutes fall into three major categories: first, all constitutional changes; secondly, all laws affecting Lander revenues; (This applies above all to the taxes that are shared between Bund and Lander. Since that is the case with regard to all of the more important taxes, the Federal Council plays a decisive

role in the fiscal policy of my country); thirdly, all the laws that impinge upon the administrative sovereignty of the Lander. In numbers, this last group assumes special importance because a bill will require approval of the Federal Council for the mere fact that it contains one single clause of the described nature.

As regards the other portion of federal laws, the Federal Council has only a limited concurrence. Since the bills in question do not touch upon Lander interests at all or not to any substantial degree, all the Federal Council can do in order to show its displeasure with the bill is to lodge an appeal or veto after the bill has been approved by the necessary majority in the Bundestag, the Lower House. Such an appeal or veto can, however, be overruled by an absolute majority of that same Bundestag.

By virtue of its constitutional position, the Federal Council can act as a connecting link between the federal government and the Lander, and through this "link" the Lander can take a direct part in the decision-making process of the whole federation and, in particular, in federal legislation. All of this has an interesting result for me as the head of a Land government. On the one hand, I am called to work on federal legislation and to look after the needs of the whole of the Federal Republic of Germany. On the other hand, the constitution affords me the opportunity to argue in that decision-making process as a man who has to articulate the special interests of my own area. By the same token, the federal government can, through the Federal Council, avail itself of the political and administrative expertise of the Lander. It can use the Council to make its views known throughout the Lander.

In view of the close interlocking of legislation and administration typical of our federal system, the intermediary rôle of the Federal Council has assumed special significance. The Council must not only look after the Lander interests, but also attend to the requirements of the whole federation. Those who help to decide issues in the Federal Council can never simply contemplate the federal government's interests without bearing in mind those of the Lander, and vice versa. In other words, the Federal Council, composed of representatives of the Lander, makes certain of the very close involvement of the various constituent states of the confederation in its political acts and omissions. The Council is, in fact, a genuine organ of integration.

Needless to say, this involvement of the Lander in the overall responsibility of the government and the concomitant moderation of political strife also produce disadvantages. The Lander involvement may become a burden if moderation seduces politicians into accepting unsatisfactory compromises likely to blur all political nuances to the point of becoming indistinguishable.

At the present time, we have differing party majorities in the two Houses of our Parliament. In the Lower House, or Bundestag, the coalition between the Social Democrats and the Liberals holds a majority, whereas the Lander governed by the Christian Democrats hold the majority of the seats in the Federal Council. However, even under conditions as described, which can create awkward situations at times, the basic principle of federalism is confirmed, because its main idea, after all, is the limitation of the power of the central government.

The fathers of our constitution drew upon a wealth of German constitutional history and also on the expertise of the traditional democracies when they sat down to write our "Basic Law". It was not their aim to create unnecessary petty and time-consuming obstacles, but to prevent an excessive concentration of power in the hands of the central government. In other words, they created a system of checks and balances. In practice, our federal system has worked so well, we feel, that distinctive regional features and cultural variety have survived without any neglect of the essential interests of the country as a whole.

This said, I have to admit that our system also encountered its difficulties and its problems of adjustment. I am thinking, for example, of the few but not unimportant cases of party-political controversy between the Bundestag and the Federal Council.

During election campaigns in particular—and we are going to have one next year again—the party set-up of our two Houses of Parliament sometimes renders it difficult to find formulas for necessary compromise. It also makes very high demands on the willingness of all concerned to bury their differences in order to come to working compromises.

Moreover, the 30-year history of the Federal Republic of Germany has been marked by a trend towards centralization which can become a danger to federalism. A series of constitutional changes have resulted in a transfer of certain jurisdictional rights of the Lander to the federal government. During the same period there has not occurred one single constitutional change in the opposite direction that would have increased or expanded the jurisdictional rights of the Lander.

It has to be said, though, that the changes that did take place concerned legal provisions which needed the approval of the Federal Council and, in fact, in some cases expanded its right of approval. However, at best this may have strengthened the role of the Land governments because of their representation in the Federal Council; it did not strengthen the rights of the Land parliaments. The realization seems to be gradually gaining ground that we are approaching a limit in this regard. If this limit is exceeded, the Lander parliaments will begin to forfeit their own scope for formative political action. Be that as it may, none of our major political parties wishes to undermine the jurisdiction of the Lander to such an extent as to weaken the strength and drive of our federal mechanism.

Another problem which gives rise to certain misgivings about our type of federalism is what we call the "third level of government". We use this expression to describe the increasing number of joint bodies or commissions set up to discuss and seek solutions for problems that concern both the federal government and the Lander and which are composed of representatives from both levels. I was glad to learn that in Canada you have possibly even more of these federal-provincial bodies.

The various parliaments find themselves in a position where they virtually have to accept the resolutions adopted on the "third level", so as not to endanger the laboriously achieved consensus of opinion between the federal government and the eleven member-Lander. This narrowing of the scope of action of the Lander parliaments can only be described as unsatisfactory.

Yet another problem confronting the parliaments of the Lander concerns the financial system. I am referring to the distribution of revenue between the federal government and the Lander. In the case of certain investment projects, which should be handled by the Land alone, the federal government can assist in the allocation of funds. There are three such areas in my country and we refer to them as "communal tasks". They are university expansion, improvement in the economic structure of the regions and improvement in the structure of our agriculture.

It is certainly a good idea to have both the federal government and the Lander governments involved in decisions on important matters like the ones enumerated above. The fact is that the federal government, although it has no jurisdiction in those fields, defrays 50 per cent or more of the investment costs. In other words, through this cost-sharing arrangement—and herein lies the real problem—the federal government takes part in decisions outside its own area of responsibility and thereby jeopardizes the right vested in the parliaments. This is because all preliminary decisions are taken and corresponding resolutions are adopted by the planning committees which, in turn, are appointed by the administration. Once the federal government and the eleven Lander have attained a consensus, the parliaments find it virtually impossible to change any of the respective resolutions.

Another matter of some concern is the blurring of the dividing line between the Federal and the Lander areas of responsibility in this field. For that reason, there are many people who advocate that "communal tasks" programmes, which have been in existence for the last ten years, be scrapped altogether.

Ladies and gentlemen, this survey of federalism and parliamentarianism in the Federal Republic of Germany could only outline some of the most salient features of the German system. I hope, nevertheless, that my sketch has presented a picture which may provide a number of new insights useful for comparison purposes.

I should like to emphasize once again that it was not my intention to give unwanted advice—although we are aware (and, to be frank, are a little bit proud of the fact) that the parts of our constitution pertaining to our federal structure are being studied in Canada and that their basic features have found their way into some proposals for the reorganization of your own federal system.

As mentioned before, it is my opinion that the main purpose of a federative constitution is the incorporation of checks and balances into the system of government. It is true that in Germany we can look back on a long tradition in federalism. There was a time, however, when federalism disappeared or, rather, was abolished in Germany.

The Nazis did away with the Lander governments in favour of a strong central power. This very fact of history reminds and admonishes all those of us who carry responsibility now and want to make democracy work, that federalism must be held in respect as a highly valued principle of constitutional order.

Hon. John E. Stokes: Mr. President, I couldn't help thinking while I was listening to your excellent presentation on the federal system in West Germany, what a wonderful world this would be if we could take all of the best features and all of the best aspects of parliamentary democracy in all of the jurisdictions and disregard all of the disadvantages, all of the inhibitions that are inherent in all of them. We wouldn't have to spend time such as this in rehashing parliamentary democracy.

However, as a result of your presentation tonight, sir, I think we will have a better appreciation of what is happening in other jurisdictions. I am sure all of those who have heard you this evening have encountered some new ideas, some new concepts for improving on parliamentary democracy; a very, very fragile system of government, but one, I think we all agree, is so much better than anything that happens to be in second place, that any basic change is not worthwhile contemplating.

I do want to thank you, sir, on behalf of all of those assembled, for your very, very excellent presentation, and I also want to thank you for spending as much time with us today as you have.

The seminar adjourned for the day at 8:20 p.m.

TUESDAY, OCTOBER 16, 1979 - MORNING SESSION

Chairman:

Mr. Robert F. NIXON, M.P.P.,
Opposition House Leader
Legislative Assembly of Ontario

Subject:

Parliamentary Committees and the Executive

Main presentation:

Hon. Richard B. HATFIELD, M.L.A.
Premier of New Brunswick

Participants:

Hon. Kwaku BAAH
Opposition House Leader
Parliament of Ghana

Mr. Kenneth BAKER, M.P.
House of Commons
United Kingdom

Hon. John E. BROCKELBANK, M.L.A.
Speaker of the Legislative Assembly
of Saskatchewan

Mr. Peter DOBELL, Director,
Parliamentary Centre for Foreign Affairs
and Foreign Trade, Ottawa

Mr. George CUNNINGHAM, M.P.,
House of Commons
United Kingdom

Dr. Mark MacGUIGAN, M.P.
House of Commons
Ottawa

Tuesday, October 16, 1979

Morning Session

—Summary—

Parliamentary Committees and the Executive

--The other side of the Coin--

Mr. Hatfield began by discussing a widespread concern that Parliament has been reduced to little more than a formal ratification of the executive's wishes. He suggested a strengthening of parliamentary committees as one means of restoring Parliament to its proper role; however, he also pointed out important drawbacks to increased committee activity.

For example, Mr. Hatfield is concerned about the trend towards the full-time parliamentarian who spends all his time in the capital; this makes it difficult to keep in touch with constituents and to be truly representative of them. Parliamentary committees with permanent staff and open-ended terms of reference threaten to increase this problem.

A further potential for difficulty, in Mr. Hatfield's view, is tendency to avoid political responsibility by classifying issues as technical matters to be delegated to royal commissions and regulatory agencies. Mr. Hatfield sees the beginnings of the use of committees for this form of political escapism. Any voter is entitled to speak to his elected representative on any issue of concern to him, but if issues are constantly passed on to subordinate bodies, individuals will have difficulty in bringing their views forward and in identifying those responsible for decisions. Mr. Hatfield insisted that political decisions be made openly by institutions which are approachable and which are responsible to the people they affect.

Mr. Hatfield's position is that parliamentary committees should explore the full range of policy choices, but that the Legislature must take the final decision. Committees, he argued, should prepare the Members for making choices but should not permit them to avoid decisions.

Discussion centred upon Mr. Hatfield's views on full-time parliamentarians (with which several speakers disagreed strongly); the appropriate balance between a member's responsibility to party and his personal views and those of his constituents; and the dangers as well as the advantages of cabinet dominance of the legislature.

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
TUESDAY, OCTOBER 16, 1979**

The seminar opened at 10:06 a.m.

Mr. Holtby: I have the honour to introduce your chairman for today, Mr. Robert Nixon, who is the member in this House for Brant-Oxford-Norfold. He is a former Leader of the Opposition and is now the Opposition House Leader. He was first elected to this House in a by-election in January 1962.

That, in itself, is not particularly remarkable, I say with respect, sir, but next week, on October 20, it is the 60th anniversary of the election of Mr. Nixon's father, Mr. Harry Corwin Nixon, a former Premier of Ontario. For the past 60 years Nixon, father and son, have represented the one constituency in this House, which I think in any Commonwealth Parliament must be a record.

I don't think Mr. Nixon needs a further introduction other than to say he is a great supporter of the activities of this association, and I call on him to chair the proceedings today.

The Chairman: Thank you Mr. Holtby, and good morning, ladies and gentlemen. During my years as Opposition Leader I was privileged to attend federal-provincial conferences and would often find myself sitting in the peanut gallery with some other opposition leaders from across the country. It was in that back row that I first met Dick Hatfield and Gerry Regan. The three of us were low on the federal-provincial totem pole, as I recall, and at the end of a lengthy session, with the television lights and cameras focused on the Premiers and their entourages, they would go off by limousine to have dinner with His Excellency and we would walk across to the hotel and have warm beer and commiserate.

However, the other two members of that little club were more upwardly mobile than I. Regan has been there and come back, but Hatfield finds himself the dean of the Premiers in Canada. He was sworn in as Premier in 1970 and has exercised the power and responsibility of that office since then.

The seminar is concerning itself with the committee work of parliaments and legislatures and particularly the control of executive and executive expenditure. This morning we have an executive *par excellence*, the president of the Executive Council of New Brunswick, who is going to give us the other side of the coin. So it is a pleasure for me to welcome Premier Richard B. Hatfield.

Hon. Richard Hatfield: Thank you very much, Bob. I remember those lesser days when we were lesser people, but I also remember that the media paid more attention to you, as Leader of the Opposition, than they did to Gerry and I. It will ever be thus.

Thank you very much for your introduction, and I must say congratulations on the tradition that you have maintained. Being a Conservative, it is that kind of tradition that I have a great deal of regard for.

It has been questioned with increasing frequency over the past few years whether parliament is still a significant entity in our system of government. It has been said that the role of parliament has been reduced to little more than the formality of ratifying the wishes of the executive at the crack of the party whip.

One way of restoring a more vital function to parliament that has been suggested is to expand and strengthen the role of parliamentary committees. The new federal government in this country has promised to do just that as part of its program of parliamentary reform.

Committees are also taking on a greater prominence in the various provincial legislatures. Therefore, the choice of subject for this series of seminars is very timely.

The desire to restore greater parliamentary control over the executive is the basic impetus in the rising enthusiasm for parliamentary committees. Being one of that class of executives and, as has been said, the senior member of the political chiefs in Canada, you may conclude that I would use this forum today to

belittle the effectiveness and the potential of parliamentary committees in a subtle attempt to preserve from erosion the prerogatives and privileges of my role.

Once again, the rules of logic, or at least that kind of logic, do not hold complete sway of the field of human affairs, particularly that great human affair of politics and government.

During my term as Premier, I have given a high priority to vitalizing the committee system in our Legislature. I introduce the practice of naming an opposition member as head of the Public Accounts Committee. The standing committees have been used frequently and effectively to give more in-depth scrutiny and to provide a forum for more public comment on government and opposition legislative proposals.

Each year select committees in the House research and make recommendations for policy on particular problems, thus helping to restore the role of the legislator as initiator as well as ratifier. I trust that this record confirms that I feel no threat from a legislature which is rendered better able to do its job through a strengthening of the committee system. However, there are trends in the evolution of our system which do concern me because, in my opinion, they constitute not improvement, but abuses of it.

I would be very disappointed if the committee system was used, inadvertently or otherwise, to aid or abet the introduction or promotion of these ideas in our system of government. It is this aspect of the issue of parliamentary committees that I particularly wish to address here.

One of these trends is the increasing phenomenon of the full-time parliamentarian. Parliament is intended to be composed of individuals who are representative of and responsible to the wide variety of constituencies in the nation.

A representative need not, nor should not, merely voice the views of his constituents, but he should know and understand them, individually and collectively. He should also know how to change those views and to lead his constituents with him. If he spends all of his time in the capital city, fully immersed in the business of government, he inevitably loses the necessary contact with his constituency. He and his constituents lose their chance to influence and respond to each other. This is something that cannot be replaced by mailings, questionnaires and polls.

While becoming removed from and less representative of his constituency, the full-time parliamentarian may become only subservient to parliament. If parliamentary committees become full-time institutions with permanent staffs and never-ending assignments—in short, if they become full-time jobs for their members—they will tend to encourage subservience to the parliamentary milieu.

I would suggest that as a rule committees should maintain their ad hoc character. They should be restricted to dealing with a particular problem and designed to come to an end at a particular time.

Committees with permanent staffs, with open-ended terms, with substantial powers unrestrained by limited mandates, would soon shed even the pretence of mere aids to the legislature as a whole. They will grow into narrow-minded, self-conscious and self-serving institutions.

Another trend of which I disapprove is the attempt to avoid political responsibility for what are in fact political issues by classifying them as mere technical matters which can be delegated to royal commissions, regulatory agencies, or public utility commissions.

Legislative committees, with their technical, non-partisan and almost judicial airs, can also provide a tempting opening for this type of political escapism. While it may relieve politicians from a tight spot, it is a hoax on the public, to whom we are supposed to be responsible.

With any political issue, every voter is entitled to have his own opinion. He knows he is entitled to speak to his elected representative directly on it, knows that he is entitled to hear that representative's stand on it, and knows he can make the ultimate decision on that stand at the next election. When such an issue goes through a strange metamorphosis by being referred to a special commission or a committee or a public utilities commission, everything changes.

Suddenly, the ordinary voter can no longer address that issue and those who will make the decision on it, at the voter's convenience and in the voter's own style. He will have to hire a lawyer or prepare a written brief. He will have to attend a formal hearing and be allocated a few minutes to summarize his views. Suddenly, his opinion counts for nothing, unless he is an acknowledged expert in the field or can articulate it in the prevailing jargon. Suddenly, there are no more choices being made by individuals whom he can identify and hold responsible. Instead, there are only conclusions packaged to appear as inevitable and too often anonymous.

The point is that political decisions must be made openly by individuals and institutions which are approachable on many levels and which are responsible to the people who will be affected.

The committee system should be designed to reinforce these principles. It can do so by helping to expose the full range of choices available, by increasing the opportunity for the public to confront their representatives and by returning the matter to the legislature for the final political decision. That system should not be used to create the illusion that these issues are merely technical problems with merely technical solutions, which will be ratified, without question, by the legislature.

The role of the politician is not to find abstract answers to abstract questions. He is not expected to supply technical expertise to the solving of the problems that must be faced. There are civil servants and consultants available for that. His role is rather to develop and exercise sound political judgement with respect to these problems. That political judgement must be based on an understanding of the problems in the context of the people we have undertaken to govern, and like any other skill it must be exercised continually, fearlessly and to its limits, in order to be perfected. Political judgement is like a muscle; if you don't use it you will lose it.

I believe too many legislators and legislative committees fail to appreciate these basic truths. They seem to think that the matters assigned to them are just like problems in physics which have the same solution everywhere in the world. With unselfish but misguided zeal they search around the world, hoping to find that solution.

Their time would be better spent and their credibility with the public would be enhanced if they spent that time discovering the real context of the problem here at home and considering approaches to it within that context. If the advice of someone outside the jurisdiction was necessary, they would be better advised to bring that person to the committee, rather than taking the committee to him.

I would congratulate, therefore, the organizers of this conference for bringing the president of the Bundestag to Toronto, because I have looked askance at legislative committees from across Canada on their way to Germany to find out how that system works, and I think so have a lot of the people we represent.

They also seem to think that there is some person or some technique that can just hand them the answer. To find it they call on academics and experts, they commission studies and polls, but sooner or later they will realize that these things will not unfold any revelation nor lift the burden of choice from their shoulders. They should do all they can to come to appreciate the practical realities of the problem. They should do all they can to explore the means that are available to deal with it. But they should do it all with the clear understanding that at the end there is not an answer but only a choice they must make and a choice for which they must be responsible. The aim of a parliamentary committee should be to prepare its members for that choice, not to protect them from ever having to face it.

It is my oft-stated conviction that our system of government is the best in the world. It is designed to give us political leadership that is both representative and responsible. When the committee system accentuates these qualities, as it can do, it is something to be encouraged, but we should resist any tendency, conscious or otherwise, to use that system to dilute those qualities, as it also has the potential to do.

Thank you.

The Chairman: The group assembled I know would have questions they would like to put to Mr. Hatfield and also views they would express. I think it would be better if, Dick, you accepted the questions

directly from the floor rather than through a chairman, but the floor is now open for comments and questions.

Dr. MacGuigan: I am going to challenge something that Premier Hatfield has said, but I wouldn't want it to be thought that I disagree with everything.

In terms of the fundamental point about having to make political choices, I quite agree with him that you can often run quite a long way to avoid having to face that issue. But I guess there is really a difference between the legislator's point of view and the point of view of the executive, and maybe that's why this session was rightly called The Other Side.

When we come, for instance, to the full-time parliamentarian, I have to be a little suspicious that the person who is threatened by the full-time parliamentarian is not the public but the executive. I can recall a conversation with one who is no longer a cabinet minister in Ottawa but a long-time one, who said to me that he used to like the old system better when we brought Parliament in for a few months and then sent them home so we could get on with governing the country. With respect, sir, I see a little bit of that attitude in your comments.

While on the one hand there are people who do get an Ottawa mentality—I am sure we could both name some of them—the fact is that most members of Parliament who go to Ottawa do try very hard to retain their roots in their constituencies.

Just to make this clear—and this is typical, I think—I live in my constituency; I have for the 11 years that I have been in Parliament. On Sunday when I got home from the Winnipeg conference I attended an antique show run by the Windsor symphony orchestra; that night I went to the wake of a Romanian priest who had died, and in both cases I saw large groups of people. It was politically profitable for me, but it is also very helpful in knowing what people are thinking at a given time. That is true of at least two thirds of our parliamentarians in Ottawa and I am sure in the legislature, as well.

I think the people who tend to get farthest away are those in the executive, with respect, because they have less time to do this kind of job in the constituency than those of us who are really legislators do.

So I don't see any threat to the public interest from the full-time legislator; in fact, I think that is already here, it is inevitable. I think that we have to accept this and try to work out solutions within that fact.

Premier Hatfield: I don't disguise the fact that I believe that full-time parliaments are a threat to the people as opposed to a threat to the executive. Very often a lot of the members of the executive—I don't happen to be one of them—really like the forum and, I am inclined to think, try to make it a forum for their own entertainment.

But I think I can give examples where I believe Parliament made the wrong decision because the parliamentarians did not know the views of their constituents, or were not prepared, because they did not have a chance to live among them, so to speak, as opposed to visiting them—which you were talking about, I believe. They were not able to change public opinion.

Let me give you the example of capital punishment. There was no effort made on the part of the majority of parliamentarians—well, I can't be that sweeping perhaps, but most parliamentarians did not make an effort to try to change the views of their constituents. They took some pride, I think, in suggesting that they stood up to it.

I think we should ask ourselves whether Parliament—and what I say about Parliament applies to the legislatures—whether or not they are in fact serving the public interest by being involved in issues for such a long period of time. When I look back at some parliaments, in a year's period, a 365-day period, they don't really accomplish very much in the interest of the public or the constituency they serve. I think the reason is that they do get caught up in the forum aspect of parliament, in being on stage.

So I don't consider Parliament as being a place. I am beginning to lose my patience because I find it time-wasting, really and truly time-wasting.

Dr. MacGuigan: That's an executive point of view.

Premier Hatfield: It may very well be but I also find that it's not making an impact. Perhaps if the back-bencher, so called, or the non-executive Member of Parliament is in fact in touch with his constituency, he should be able through the caucus system to have some influence on the executive. Otherwise, the executive is going to go the way that all executives do when they become deaf.

Mr. Baah: Kwaku Baah from Ghana. Mr. Hatfield, I have a little problem with this. The problem with parliaments and the executive is that the parliamentarians or parliaments want to be in a position to control the executive. If it's going to be able to control the executive, it has to be in the position to keep up with activities of the executive.

The executive is full-time. You can't have one person doing a long-distance marathon and another person doing 100 yards if the two parties are going to keep up with each other. I think the real problem now in the modern parliamentary system is how we make it possible for the legislature to keep up with the executive so that the executive simply doesn't go off on its own without any checks? This is the real problem.

There's a real choice. Maybe we won't find the answer but let us have some idea of what the choices are, the options, so that we would know which choice to make. But definitely the problem is how does the legislature keep up with the executive so that the executive does not go off on its own. If the legislature is going to be able to control the executive, it must have as much information available to it as is available to the executive.

The next thing is how are they going to be able to keep up with the work because all the action is in the capital city. If they are going to be able to keep up with the work there, how do they also get in touch, play the other role of keeping the constituents informed and keep the leadership role among the constituents. If they are going to spend all their time in the capital chasing after the executive, one side—that is the side where they have to serve the interests of their constituents—will suffer. But I imagine that if they are able to keep the executive in check, they would have served the interests of the constituents anyway.

So it's really a question of emphasis. What is it that an MP has to do? Is it the choice that he should keep the executive under control or that he should spend all his time with his constituents? Then, if he has to spend all his time with his constituents, what does he have to come to parliament for?

Premier Hatfield: I can't agree with your premise that the legislature or parliament should control the executive. If you have a majority government situation, then I believe the first minister should be in charge of the cabinet, but he has to be accountable to it because he has to have the support of his cabinet. The cabinet is responsible to the caucus, the majority of the legislature, and if it is not, then you are going to get indecision or you are going to get chaos or you are going to get delay or you are going to get confusion. The cabinet must be responsive and accountable to the caucus. It must explain; if it doesn't, then the cabinet loses support or it loses the strength of the support of caucus that it would have. Of course in the Parliament they should be in charge.

You ask how legislators can control the executive; they can use powers of persuasion in the legislature or in the Parliament. That's the only device they have. With the whip system that we have, and which I support and which I think is essential, it's very difficult in the legislature but it is not difficult in the caucus. There are ways of distinguishing yourself from your government or your party leader without being a traitor or whatever.

Mr. Cunningham: Rocking the boat.

Premier Hatfield: Right, rocking the boat. I think we are seeing more of this and I think it should be more acceptable in the legislature or in Parliament. I do believe in the whip system when it comes down to a vote. I think you do have to go for the greatest good rather than for your personal point of view—which may be a selfish one, which may be a narrow one, which may be an expression of vanity as opposed to a reasoned and intelligent one. I don't really believe that legislatures should, in the sense you are suggesting, control the executive.

The executive part of government has come to a decision and it must explain that decision and it must be accountable for it. Then if you can't support it and it's significant enough, you must oppose it. That's the one check you have on the executive: you can throw it out.

I am there as Premier of New Brunswick not at the pleasure of the people of New Brunswick. I am Premier of New Brunswick at the pleasure of the 28 members of the legislature—or 27, whatever it is at the moment. They are the ones who decide. A majority of them decides whether or not I will continue on as Premier, not the people of New Brunswick, and I think we tend to lose sight of that from time to time.

What really concerns me is not what's happening inside Parliament or this business of passing things over to agencies. I don't want to single anything out, but on this question of public utilities we have had two Premiers of Nova Scotia who have stood up and said, "I can do nothing about power rate increases in Nova Scotia." What kind of impact do you think that has on the people of that province? What state is democracy in when the head of the government, and presumably speaking for the whole government and presumably speaking for the whole legislature, given the fact that in the last two years two Premiers, one from either side, have said, "I'm sorry, we can't do anything about it."

In New Brunswick, the cabinet makes the decision as to whether or not rates are going up and by how much. Cabinet is going to have to make that decision and take the responsibility for it. If the executive decides, for example, that it must raise power rates and gives good reason, then just because it's unpopular I don't think a legislature should be able to say simply, "Look, I am going to go for the votes and try to keep power rates down" and check government that way.

If the executive clearly is doing something wrong, then you have to stand up for the concepts and principles of parliamentary democracy.

Mr. Cunningham: I am sure Premier Hatfield has expressed the view as he intended to do, as Mr. MacGuigan said at this session, which is the executive point of view. I couldn't help feeling that his remarks throughout were expressed in viturally identical terms to the terms in which I have heard Jim Callaghan speak, especially during the hung Parliament that we in Britain have just concluded.

I remember occasions when Jim Callaghan would sit there during that time, which is very bad for any government of course, and say, "I look back with some longing," he certainly implied, "to the days when the role of the government's back-benchers was to be the eyes and ears of the government, to listen to what the public wanted and then to make those representations to the government: 'You are getting unpopular because of this or that and my people won't stand the following, so for goodness' sake change your minds because we are all going to be in trouble.'" But then of course the unstated last sentence was normally—and this is certainly the last sentence that Jim Callaghan always wanted to hear: "But if you say we go over the trenches, we go over the trenches. You call the shots in the end."

I totally, but totally, disagree with that point of view and I believe that every government is the better for a good beating and should be beaten not infrequently. If you are only making the threats but never carrying them out, always trying to persuade but not using the power which the electorate gave you as a back-bench member—the power to vote in the legislature—then I think no government is actually going to listen to your voice very often. Of course, if you can persuade the government it has made a mistake, bring to its attention some facts it has genuinely overlooked, that's one thing. But what happens when there is a genuine difference of view between some of the government supporters and the government—not that there are different facts taken into consideration, but there is a different judgement of what ought to be done?

Premier Hatfield says that in that situation the back-bencher in effect should say to himself, "I have a right, if I think it's important enough, to bring down the government," and he should either do that or fall into line. What I would just like to say to him is: Why should it be necessary for someone to bring down his government, which he wants to continue as a general principle and on other grounds or on other issues, when he disagrees with it on one issue? Why should he not use his power, the vote, to alter the decision on that one issue in line with what the majority of the legislature wants? He can only do it if the majority of the legislature is going to outvote the government.

What is wrong with that? What disadvantage occurs to any democracy if that happens? I know that in the sort of British mythology, which we have spread all over the world of course, there is the notion that governments are somehow wrong and immoral if they continue in office after they have been defeated on an important issue, but surely that is a very harmful myth to good government.

Would it not be better if it were more common for governments in this system of government where the executive actually sits in the parliament, to be defeated on individual issues, so long as it is not done lightly and with vanity and so on, and only after reasonable compromise, which must apply between all people in decision-taking situations. So long as you have gone through all that and you still think they are wrong, what is wrong with actually taking it to a vote on individual issues?

Is it not the final negation of parliamentary democracy when you know damned well that there's a majority of the legislature that thinks "A" but because some of them have been defeated in caucus they will vote for "B", so a natural majority for "A" in the House is converted into an unnatural majority for "B" in the House because some of them are not voting the way they think?

Premier Hatfield: First, I see nothing wrong with a government being defeated on an issue that is beyond no-confidence, but clearly on an issue of no-confidence, a money bill, for example, the government, it seems to me, has to go to the people.

Mr. Cunningham: Why?

Premier Hatfield: Because I think that clearly they would have lost the confidence of the people in the Legislature and I think they would be weaker and ineffective—the government itself or the executive will be—and they will be gunshy. They will become very conservative. There are enough pressures on government now to change nothing. I think that would encourage more of that.

But I see nothing wrong with the government being defeated on some matters or I see nothing wrong with the government changing its mind. As a matter of practice for a period of a session of parliament, if you are going to have to defeat the government several times, obviously something is wrong.

Mr. Cunningham: Not necessarily.

Premier Hatfield: I must say I think the people would perceive that. If the government were adamant in stating, "We are going to stand by this and you are either going to vote for it or else we are going to deny you some perks," or what have you, I think the government can't get away with that too often and too many times. They have got to change their mind, it seems to me, and I think they will if they are reasonable people.

One of the problems I perceive today is that the population is confused. There was a time, perhaps in the good old days that Callaghan referred to, when people believed that they must know what they are doing. As a result of a lot of things—the medias' encouragement of vested-interest groups, special-interest groups, and the play given to them and so on, and because, as I say, governments are constantly shifting political decision-making to somebody else such as royal commissions and so on when they get in trouble—now the general consensus is they don't know what they are doing. I think it's important that the leaders of a country give the impression—not give the impression but in fact demonstrate that they do know what they are doing.

I am concerned that there is a tendency developing, mainly because of the insidious practice we have in this country of poll-taking—which I am really out to get because I think it is having an influence on government that is beyond the comprehension of anyone who had any kind of concept of parliamentary democracy—that their decisions are not being made in the cabinet, they are not being made in the caucus, they are not being made in Parliament, they are being made in somebody's back room. As the late Robert Kennedy said to me about polls: "Make sure you get them in pencil so you can change them when you don't like them."

I think that is going on at an alarming rate and not only influencing the government, which concerns me, but also influencing the people. They are saying, "What do most people think?" It is difficult to stand

alone. It is difficult to make up your own mind because you are led to believe constantly that you don't know. Take nuclear power. I am told constantly that I know nothing about nuclear power, that I am not a scientist. They point out to me, "You are not a nuclear physicist. You don't know and you are making those decisions for me. What you should do is turn the decision over to a nuclear physicist, I suppose."

I think that's wrong and I think it's a corruption of our parliamentary democracy. This is going on too much and it's having too much influence. I think its contributing to a view that governments are not in charge, governments are not leading, governments are not governing. If that becomes the case in parliament itself where it's manifested that if governments are not in fact able to lead—and I am talking about a majority situation; Callaghan was a minority situation and minorities are, I think, evil in themselves, inherently—I think we must not allow governments to give the impression they are being knocked down time after time—as I said, four or five times during a session—because clearly that will destroy them.

There has to be a certain amount of myth in government, about government.

Mr. Cunningham: It will destroy what?

Premier Hatfield: Destroy confidence in the leadership of the country.

Mr. Baker: This has broadened rather widely into the concept of leadership in a parliamentary democracy, or any democracy in the west for that matter. It seems to me we are dealing with issues that go much further than committee work or much further than the relationship between back-benchers and their party.

You are quite right, Mr. Hatfield, when you say the people generally want strong leadership. When they get it they usually resent it and they might well be very wrong in wanting strong leadership, but this is a failing across the world. Our parliamentary structures, and I include the American system which is very different from ours, are very much designed to create the sort of executive authority you embody.

But over the recent years there is another trend developing right across the western world where that authority is being questioned because successive governments, whether they be Labour, Conservative, Liberal or the rest, fail to deliver the goods and the whole system comes into disrepute. We are beginning to see a sort of diaspora of power in parliamentary democracies, and this is very evident in our country, for example.

You said your government controls the prices of gas corporations and public utilities. Our government has tried this under successive Labour and Conservative governments and now we are stepping back from this and sort of saying, "Now it's up to the gas corporation and the electricity corporation of the railroads to decide their own tariffs." We are stepping back, as it were, from that.

I think that sort of thing is going to happen more and more in our sort of society. They are powers in their own way. But this is also happening in our political system where you are beginning to see a much greater independence by Members of Parliament, obviously on the social issues where the whips don't apply—on abortion, homosexuality, things of this sort where you make up your own mind. That was the beginning of quite an important trend and I would have thought that we were going to see more and more of this.

There was a time in the Conservative Party in England when you absolutely had to sign on the dotted line that you were going to be there supporting, come what may—or even supporting the government by not being there, which is a very important way to support government—but your job was to sort of keep the party in power. This is becoming much less true now and we are beginning to see this diaspora of power and one is beginning to see in the western world a fragmentation of what party loyalty means.

This is most evident in America where you have what is to us a very strange thing, and I am quite sure it seems so in Canada as well, and that is Democratic congressmen sitting on the fence saying, "Well, we may not support Carter, our Democratic president." They might be very wise to make that decision, but it is quite a weakening of the party organizational machine.

You are seeing right across the western world—I don't know whether it's true in Canada—the actual membership of political parties falling dramatically, the paid-up membership. This is really a reflection by many of the people whom we represent that the old system is not quite reflecting what they want.

What they do want is another thing altogether. You were saying earlier, "I don't want these chaps too busy in committees in my province," for the reasons you put forward. "Let them go back to their constituencies." I think this is a slight danger. This is a rather undemocratic thing to say. I think one of the dangers of all elected representatives like ourselves is to be a little too close to the people who elect us.

This is a very unfashionable thing to say. One of the problems in Northern Ireland is that the politicians in Northern Ireland are absolutely prisoners of their constituents, both Catholic and Protestant. There is a danger that we shrink away, from taking the big decisions—whether it be on nuclear power, whether it be on abortion, whether it be on the sort of economic system you want—by going back to our constituents and listening to a whole lot of voices and not giving them the lead. As I say, that's quite a difficult thing to say and I believe it's a danger for us all.

Therefore I believe it is not an alternative you are putting forward: "Send us back to our constituencies; act as listening posts". I think one is really discussing the nature of political leadership in a democracy, and it is changing. None of us can quite see how it is going to change and how it is going to develop.

One thing of which I'm fairly certain, is that the old system of a government being supported in power consistently by a party or caucus vote, is under pressure, will continue to be under pressure and will erode.

Premier Hatfield: I would agree with a great deal of what you said, in the sense there is a danger we will get too close to our constituents, particularly in view of the fact they're not that well informed, mainly, in my view, because of the media. I'm not suggesting that Parliament sit for a few days and then you all be confined in your constituencies. I made the point you should not be listening posts. You should live among your constituents. You should know how they feel, and you should also try to change their view if you feel strongly about a particular matter.

One of the ways it can be done is through the legislative committee, as I've suggested. That has had an impact. Certainly, the number of committees we've had in New Brunswick has had an impact, in my view, upon the quality of debate in the Legislature, and the contribution individual MLAs have made on particular matters. We've even had committees come up and support, on a nonpartisan basis, the position taken by the government, even though that position was not necessarily popular, or is not perceived to be popular if you listen to the special interest groups or the loudest voice.

What causes me more concern is we are saying, as you have said and others have said, there are changes, and people don't want leadership when they get it, when it's strong. I don't agree with that. I think they do want strong leadership and they will accept it. What they won't accept is an outburst of leadership on a particular point and then going back to shuffling off all kinds of responsibility for all kinds of issues.

The reason we're saying those things is because we are becoming a parliamentary group. We're thinking like parliamentarians as opposed to thinking like representatives of the people. We're starting to represent our capital city, in other words. Those people out there are not ready to accept this. How do you know they're not ready to accept it?

I've been watching very closely, and with great sadness, what has happened in the United States, which is the epitome of this thing where the legislator is in full control, absolute total control. There are no whips, no anything. The only thing you can do there is use the power of the legislative committee to bring individual people in line on given subjects or deny perks, trips around the world or whatever, or deny the President's wife to your re-election campaign, or something like that. That's all they have left. Why? Because they have gone so totally to the other way in giving the individual legislator full control.

In their party system, in order to be representative—and I've talked to two of them who have gone through this process—they made the political leader go to every state, in a diverse country like the United States, and take a position on every issue in every state. Therefore, he can only stand for one thing, for which Jimmy Carter stood, which was love and trust me. That's all he can stand for because those are the

only things for which there's a kind of universal acceptance. He couldn't take a stand on abortion. He couldn't take a stand on any number of things. He did take a stand on the embassy in Jerusalem, like somebody else I know.

As a result, they arrive not in the White House or at the head of their government, but they arrive at the head of their party, completely and totally compromised. They send out all sorts of teams and use all sorts of devices to try to recover themselves.

As I have said before, one of the things I think is very desperately needed in our country is a very strong political party organization, a headquarters organization. I, as a leader of the party, as Premier of the province, can turn to my civil service and get advice; I can go out and ask people informally, casually; I can go to the president of an oil company and ask him what he thinks about oil price policy, but I don't have any kind of professional party advice, or source I can turn to which is intelligent and well considered. That's a very serious flaw in our party system in this country. The Liberal Party doesn't have it and the NDP doesn't have it. None of the political parties have it.

As a result, you get political leaders coming to office, taking a stand on something like a publicly-owned oil company and then, obviously, getting there and being exposed as not knowing what to do about it. They could have known what to do about it if they had someone within the party advise them what to do about it, or they could have avoided making the statement altogether. That is where there is a flaw in our system.

I don't believe this notion that it's because we're not in touch with people we say these things. If we do give strong leadership I'm convinced it will be supported and will be followed. Ultimately, one human mind only has so much capacity for leadership, so much capacity for innovation and so much capacity for reform. Ultimately, they too will pass on because they won't understand what's happening around them. They can grow old very young in the game of politics. Particularly today you can grow old very young.

I still believe there must be some kind of command situation in our parliamentary system. I respect and tolerate MLAs, on the government side, expressing their own free view. Sometimes it's very embarrassing. I think it has to be done, but when it comes down to crucial issues, the government must be supported by the members of the government. I think it's your duty to persuade them to do so.

Sometimes they won't support a project because it is foreign to their constituency. They say: "Why should we support a multimillion dollar hospital in one end of the province when we need better health facilities in our end of the province?" The government has to be supportive of things of that kind. They have to be supportive of budget matters.

Mr. Cherniak: My name is Cherniak. I'm from Manitoba. I became very anxious to get involved in this discussion because it's developed into pretty basic issues.

I don't know if Mr. Cunningham meant as much as he said he did about the freedom of the elected person to present his own point of view, but if he did, I can't agree with it because I've had the benefit of being on both sides of the coin we're talking about.

I believe the important thing is that parties must have a clearly enunciated policy and a platform. When people run under the sponsorship of a party, they should bind themselves to the enunciated philosophy and platform. Once they've done that, I think they're bound to vote in favour of those issues, but I think it's the responsibility of the caucus, and of the party itself, to again define what is not a basic party issue and, therefore, on which issues there can be a free vote.

It should always be known within the party whether or not it's a free vote, and it should be thought out as to whether or not a person should have the license to step beyond the vote of his party.

Having said that, I want to come back to the issue we have been discussing all this week, that is, the committee system which, I think, makes it possible for people with divergent points of view within a party to develop and to attempt to persuade other legislators to go along with them. That's why I have a belief that we have to expand the use of committees, especially special committees rather than standing

committees, so there are opportunities given for legislators to meet in an environment which is clearly not partisan and where there is no question of a vote of confidence or bringing down a government, but rather one where they can debate and discuss issues which can gradually become party platforms.

I think the committee system is beneficial to both the executive side and the back-bench on the opposition side because of the freedom that exists.

I hark back in Manitoba to issues such as consumer protection, landlord and tenant law, marital property law, all sorts of very important social issues. I believe almost all social issues gradually fall into one or another philosophical approach, which one can start to recognize as belonging to political parties. Apparently, the non-partisan environment of a committee can be developed so you can develop points of view.

I agree with Premier Hatfield that one does not want Parliament or the Legislature to sit all year round, but I do believe being a legislator ought to be a full-time job because, first, there is the work in your own constituency. Secondly, and what is more important, there is the work that can go on within the committee system which could sit, and should sit, between sessions to work on specific problems. I think that is rather important.

Coming back to the first comments I made relating to the representative having to reflect the wishes of his constituency, I'm afraid the natural trend is that the more urbanized we become, the less we are identifiable to our constituents, and the more we have to be recognized by our party and the platform, rather than as individuals.

I have very little support for the idea of "I vote the man and not the party." It is a concept which many people have and which, I think, is wrong, and destroys any idea of party discipline.

Coming back to the main issue of the committee structure and its relationship to the executive, Premier Hatfield has said he welcomes and encourages the use of committees. So do I. I have had the advantage, as I said earlier, of having committees appointed in order to explain and develop the government's point of view and the government's legislation.

At the same time, on the Opposition, in committee you very often are able to persuade a government to take a certain position and a certain stance which they would not do in the Legislative building itself because we are separated there by the mace, and we have clearcut points of views that must, by tradition, be opposing and in an adversary situation.

In committee, I think the Opposition could accomplish much more in specific areas than they can in the Legislative Assembly itself. Therefore, I would like to encourage this Premier, and all other Premiers, to appoint—and they have the control of the legislature—special committees dealing with special subjects to work between sessions so at the following session they can bring in recommendations which become good law and law which has withstood the test of extensive examination.

Premier Hatfield: I have no comments to make on that. I just agree.

Mr. Dobell: I am Peter Dobell. I share the concern of others who have already spoken about your comments about full-time, but it may partly be the difference between, let's say, Ottawa, where I think it's probably impossible to have anything but full-time legislatures, and some of the smaller provinces where this is still an attainable situation.

In fact, I can well understand the advantages of not being full-time, but once it becomes unavoidable, then it seems to me one has to accept the consequences and look for ways of trying to maintain continuing connections.

Mark MacGuigan talked about the cost, in fact, to the average member in trying to maintain the connections and, yet, do a full week's work in the capital.

One of the devices that has some support in Ottawa would be to move to three weeks of sittings and then a week off. This might be a more efficient way of maintaining a connection with the home base.

It isn't enough for a back-bench member just to be in his constituency in order to make a contribution. The fact is the world has become so complex that unless there are special situations in which a member can gain the facts to research a problem, he is not going to be able to make a contribution that will, in any way, equal him to the executive branch.

It seems to me the reason committees have become increasingly important is precisely because they are the instrument that makes it possible for the member to gain the facts. He then tempers them, as you have so rightly said, with political judgement. In fact, it seems to me what distinguishes the professional bureaucrat from the professional politician is the bureaucrat does not have the connections with the country, and does not have that same political judgement. Therefore, the advice these two groups bring is different.

You were, to some degree, reflecting the complaint of many ministers—and I've heard this often expressed in Ottawa—that they become, to some degree, captives of the bureaucracy. That's perhaps too strong but, nevertheless, they're not given the opportunity to get alternative sources of advice.

The only solution for the minister who makes this complaint is to enhance the role of committees because committees can bring this informed, but nevertheless politically sensitive, advice.

I have one difference with you in that you implied this advice is best given through caucus. My own feeling is that is the wrong route. It's an unavoidable route at times, but it is superior if it comes through the committee because this automatically means it involves all parties. Where a report of a committee is able to attract support across party lines, then it is inevitably going to have a better fate when it comes in the form of legislation.

I would say it is very important not to seek and to secure advice only from caucus, but rather to encourage parliamentary committees to be the source of this advice.

Another of your comments that troubled me slightly was the emphasis on ad hoc committees. I realize, again, practice varies from legislature to legislature. Mr. Cherniak made the same reference to having specialist committees.

In Ottawa, standing committees have quite often entered into the mode of inquiries and have found it perfectly possible, if they have a good chairman, to conduct an inquiry which is not partisan, once they have a clear set of objectives and one where party positions are not defined in advance.

The advantage of moving from ad hoc to standing committees as a source of inquiry is it makes it more possible for members to develop expertise. The thing ad hoc committees do is temporarily bring together members. Why are American committees so influential? It's because some of those men have sat for 20 years on a committee and, by that time, they really know the issues. They probably know them better than many of the ministers. I think one of Ottawa's problems is we substitute members far too often from committee to committee. It would be far wiser if members stayed on a committee for an extended period of time and built up a real body of expertise. If this happened, governments would be more ready to turn to them. We must not look to the route of ad hoc committees.

There is another advantage. When an ad hoc committee finishes its task, it terminates its work.

One of the interesting devices that a Standing Senate Committee on National Finance has developed is a way of getting a response to its report. One of the real problems for a parliamentary committee, and it's the same problem a royal commission faces, is it completes a report and it ceases to exist. The government either does or does not follow up the committee's report.

The traditional technique is to move concurrence. If you have a report with 75 recommendations—to make an estimate—what meaning is there to concurring in a report? It is obviously a meaningless exercise. What the Senate Committee on National Finance has done is tabled its report and then some months, or a reasonable period of time later, it invited the minister or ministers, if more than one department is concerned, to come to the committee and to respond in detail to the recommendations. It allows, therefore,

a detailed, fully considered response. It allows the members, in turn, to question and perhaps make new recommendations if they wish to go back into the subject.

It seems this is an advantage a standing committee has over an ad hoc committee, and one I hope will be taken into account.

Premier Hatfield: I will surrender on full-time parliamentarians.

Mr. Cunningham: One down and five to go.

Premier Hatfield: I know where my butter is breaded.

You should understand, and I think the people should understand, that what they are going to get is a much more expensive parliamentary machine which is going to require much more office space, much more stenographic help and much more special help. Each Member of Parliament is going to be entitled to a sociologist and all forms of expertise because, after all, I am a member of parliament and, after all, I have my duty to perform and I must have access to the best advice. We are going to start to represent, as does I believe Congress, not the nation we are governing but the city from which we are governing. That's fine, if the people understand that and if that is what in fact they want.

Also, we are going to have to have much more substantial pensions, because while you may set out to have a full-time career in politics, as I did, the people may decide otherwise, for the flimsiest of reasons.

The other danger, of course, is that in order to maintain that great empire, you are going to compromise on everything. You are going to keep passing things to the people or to other agencies and commissions and what have you, passing the buck back and forth. You will have to give the Senate power so that as Members of Parliament we can blame them, or senators can blame Parliament for their mistakes.

Okay, if you want all those things, I understand. You can have them. However, the other point you raised—I don't think it was important to your remarks, but it gives me an opportunity to say something on another can I am kicking—is this concept that the bureaucracy is in control of the government.

It is not true. When a minister says, "I have become a captive of my bureaucracy," he is not telling the truth. What he is telling you is, "I have abandoned by responsibility." What he is telling you is, "I got caught out on that because I got a request and I just handed it over to the bureaucracy and they gave me their best judgement. I didn't consider it. I just put it back into the process and that's it."

I want to tell you, in my view, we have a bunch of bureaucrats in this country who are far superior in the judgement they give to their government than to the members of the government. So if they are in fact in control, I would truly believe in many areas we would have much better decision-making than we do now.

Mr. Comtois: No.

Premier Hatfield: I will tell you, as well, that people come to me and say, "Look, Mr. Premier, we know you didn't want to put on user fees in hospitals. We know that you know better than that and you are more sensitive than that," and so on. "But those bureaucrats, they misled you. Those bureaucrats conned you and the Opposition, as my friend Fred will tell you, tried to get the reports that the bureaucrats gave us." All of this contributes to this mentality that the government is not in control. Maybe it is not. Maybe it is not, somewhere. I don't know. But the only reason it is not in control is because they abandoned control totally and completely.

That gets back to the point. I should not make a decision on building a nuclear power plant because I am not a nuclear physicist. I have to turn to others and I have to trust a certain per cent. I don't think the answer to that kind of problem of putting the government back in control is in the legislative committees or in any other process.

The answer simply is: accept your responsibility and be prepared to stand on it. It is going to be difficult if you want it as a full-time job because you are going to have to make some tough choices.

But I think that this statement that the bureaucracy is not in control is false. What has happened, if it has happened—I will tell you I have made a lot of decisions in New Brunswick as Premier and as Chairman of the Cabinet, and so did the members of the Cabinet, where we did not know the facts. We made those decisions without knowing the facts, but that isn't the bureaucracy's fault because they sat there silently. They naturally assumed that we would know such and such, or so and so, whatever it was. But for some reason or other we just didn't happen to know that. We still, I think, have to accept the responsibility for it, not blame it on the bureaucracy.

I don't mind a politician blaming them. Part of our skill is buck-passing. What bothers me is when people come up and say, "Oh, we excuse you because you were taken in by the bureaucracy."

You say the committees should be standing committees, and there are certain areas where I think that is valid. I think, though, that the personnel should change from time to time. The one problem I have with permanent committees and one problem I have with the congressional committee system in the United States is that you don't become an expert, you become a champion of your own dogma, of your own prejudice. I think that is why—because of the congressional committee system and because of the power that all the chairmen have, which they get not because they know anything, but because of their years of service.

The south played that game for years and years and years and years. They maintained Joe Blow as their Senator because he was in charge or the national defence committee, or whatever—defence committee, spending committee—so that he could exert pressure on all those northern radicals and, do what? Keep the colour line in the United States of America.

That's what happened, and there is a real danger that committees will, if they are permanent, become dogmatic and maintain and sustain their prejudices. I think that expertise always favours the status quo. Remember that. It always favours the status quo.

That is why I am suspicious of academics, why I am suspicious of management consulting groups—I use them—suspicious of bureaucrats, because they are always trying to maintain the status quo. That is how they function best. I am not criticizing them for that. What I am saying is that it is the duty of the legislators to inject the reform or the change or whatever whenever he can and with his own particular knowledge.

So I think I will concede that full-time Parliament is coming. I regret it. I think it will end up giving us bad government, but I think it is inevitable.

Hon. John Brockelbank: Premier Hatfield, I welcome your grudging concession about the full-time representative but there seems to be some confusion, because you concluded your remarks at this time by saying "full-time Parliament". While I am in favour of the previous one, I am not in favour of the latter, because they need not go together. They only need go together if you have a full-time Parliament; then you must have a full-time representative.

The topic, "Parliamentary Committees and the Executive—The Other Side of the Coin", is an interesting one, and I support the idea of full-time representatives. I have had the experience of being in the Opposition and being on the executive council and now being the Speaker. In my period of time on the executive council I felt that I was alienated from my constituency more than at any other time in my political life of 15 years. I am more in touch with my constituency now that I am a full-time politician and not a member of the executive council.

So it would seem to me, from a strictly selfish point of view, if you are the head of the executive council or a member of executive council, you would want to be supported by full-time representatives who would be in their constituencies, in close contact with their constituencies, for the purpose of being reliable sounding boards of their constituencies and that is just strictly a selfish point of view of the member of the executive council.

Last week I was in Edmonton at the opening of their Legislature and had the opportunity of discussing committees with a number of members of the Alberta Legislature. I find, for reasons which are not

altogether hidden, that there are a great number of committees in Alberta. I think Premier Lougheed and his cabinet and probably his caucus have determined that with such a lopsided majority in the Legislature there is some need for committees of the Legislature. Not only that, members of the Legislature sit as heads of crown corporations as well, which is not done in Saskatchewan. I have some philosophical hurdles that I would have to get over to accept that idea.

In addition, the caucus of the Alberta party has initiated numerous caucus committees and, regardless of the motive for having a great number of committees in the province of Alberta, I think there is some benefit from this and I am in favour of an informed caucus. I am also in favour of an informed electorate.

I would be pleased at any time to take my chances with an informed electorate, which brings me to the concluding remark that I think there is a fault in our system in that we send young people out into the adult world with a very limited understanding of the political system. They don't understand. They have a great deal of trust, those young people and they soon become cynical because they haven't learned to realize that they must make politicians state what their program is. Then they must make sure that politicians live up to that program, and if they don't they had better have a good reason why they didn't.

Until such time as we teach our young people in our school system to make politicians accountable, to make political parties accountable, we are going to continue to have this problem of misdirection of the governing of the country in social and economic areas, and these are the areas that give us the greatest concern.

I welcome your conversion to that full-time representative and I certainly do not agree that we necessarily have full-time parliamentarians at the same time.

Premier Hatfield: I want to make it clear that I have always been full-time. In 1966 I put myself down as a professional politician and I made a decision then that I was going to go into politics full-time; I sold my interest in the family business and did so. So I have always considered myself as being a full-time politician, as opposed to being a full-time parliamentarian.

What I am talking about is parliament sitting. That is, you representing your constituency in Saskatchewan. You can do it in New Brunswick because it is small; it is hard in New Brunswick to get away from your constituents. But in Saskatchewan, particularly if you represent the northern part, it is fairly easy to go way down south and get away from them. They are not going to make long distance phone calls unless they can do it free.

Members of Parliament have admitted to me, and I suspect a lot of them would have to say it, that they love having an excuse, for example, being retained in Ottawa because of the tightness of the House. They love having an excuse because they really don't want to go back to their constituency for three days, on a weekend, and get it all at once. They are tired, too, and they are impatient.

I just can't be convinced that it works. The concept of three weeks and then a week off I think is a very valid one, but I don't know what is going to happen during that week off. Is that week going to be just for the constituency, or will it be used for committee work, to travel and what have you?

The other thing you mentioned which is a point that concerns me a great deal. This is why I have decided in the dying years of my political life to spend more time trying to uphold the political system, because I believe it is the only one that works, but let me give an example.

Don't reflect on the young people. The Canadian Bar in this country said the Constitution of Canada was too important to leave to politicians. As the Bar in New Brunswick knows, I don't have too much regard for them and haven't had for a long time, but it went to an all-time low when that body of presumably intelligent people—certainly we spent a lot of money educating them—makes a statement like that and gets away with it.

We saw what they did when they were given the responsibility for the Constitution. Somebody raised the monarchy and they all headed for cover.

It is not our young people that I am concerned about, it is the community leader. How many times have you heard that "the administration of hospitals is too important to leave to the politician. Turn it over to the doctor under medicare. Give it to the user of the system"—things like that.

I am concerned, very concerned, also at how we so quickly accepted, for example, the setting up of a thing which I think was insidious and said so at the time, the Pépin-Robarts Commission. I have used that over and over again because I really think it was a mistake. I really think it was a sloughing off of responsibility, and I think the government paid for it.

I followed, for example, the Bilingualism and Biculturalism Commission which was set up in this country. I was free then and I was a back-bencher and I followed it virtually across this country. I didn't get to British Columbia and I didn't get to Saskatchewan, but I followed them to Alberta, I followed them all through Quebec, I followed them all through New Brunswick. So when it was all over I knew what they were talking about. I want to tell you everyone who got that report didn't know what they were talking about and that really was time wasted, in my view. It got a lot of public opinion out, but the wrong people were listening to it. They were commissioners who had no responsibility.

We have to make our parliament responsible and responsive to the people. They must not be encouraged by the people to be allowed to slough off responsibility with the attitude that politicians can't make the right decisions. You can't trust a politician to decide on utility rates—and I am talking about a public utility, by the way. Someone mentioned that. I am talking about a government-owned utility, not a private utility, but I agree all of them should be allowed to make basically their own decisions. I think that is why I am against the Public Utility Commission.

I believe that we must not allow this to happen and we must put an end to it somehow or other. I am going to do my best to try to stop that because we are not going to come to terms with the kind of problems we have, regardless of what they are, if we use all of these devices, which I call political escapism or sloughing off your responsibility.

I am against the free vote, for example. Again, I have to accept it; I can't fight that, but I am against it. I think a candidate for office, if he has a political hang-up of one kind or another, should state, "Remember, I am a Jehovah's Witness and I will oppose any means of providing blood banks," or whatever. If you want to do that maybe that is okay, but what I don't like is someone coming along and saying, "I am going to oppose that because of a particular problem I have, for some reason or other."

You are there not to represent your religious views or your particularly strong prejudices. You are there to represent the views of your constituency. Those views must be tempered by your own input, personal input, but your personal input must not be dominant, as I think it is with some free votes. But, as I said, I think that is a necessary concession we have to make today.

As politicians we have to stand up for our system and we must go out sure, I would like to see us start with the young people and just write off the next few years, but I don't think we can afford to do that. We have to start with our community leaders.

I had an example of this in the Chamber of Commerce in Moncton—I am glad to see them getting into these issues. They proposed to me that because we had some controversy down there over it, that the Speaker of the Legislature of New Brunswick be a civil servant, that he be hired and that we do it by putting an ad in the newspaper.

The Chairman: Public competition.

Premier Hatfield: Public competition. I am still trying to settle down. Every time I pick that letter up from my desk I can't answer it without using words like "nincompoop," et cetera, "dummy" and "stupid" and so forth. I know what's going to have to happen is I am going to have to explain a lot—go right through the whole thing: why the Speaker is an elected member and why it is important that he be an elected member. So we have to start at that level, as well.

And you can't train young people with the media giving them an absence of information. I am not concerned about the media being prejudiced. I wish they would be. I wish they would take strong stands on issues. They don't. They just take whatever is handed out.

If this speech is handed out in New Brunswick, my office will make a summary of it and that is what will be in the newspaper; you can bet on it. I suspect sometimes I could stand up and say there is full employment in New Brunswick and all the newspapers would publish it. It would take them two or three days before they would bother to find out whether or not there were any unemployed. In any event, I think we really have come forward for our political system. This is why I think this association is extremely valuable. It does focus the attention of the parliamentarian on the real issues of parliamentary democracy. It is one of the reasons it makes, again, our system of government far superior—certainly to the American one, but far superior to any other.

The Chairman: I see two or three members ready to go to the microphone and I must say that it is time for us to break for lunch, unless somebody feels dramatically opposed to that.

Of course, I do want to express our thanks to Premier Hatfield.

The seminar recessed at 12:01 p.m.

TUESDAY, OCTOBER 16, 1979 - AFTERNOON SESSION

Chairmen:

Dr. Mark MacGUIGAN, M.P.,
House of Commons
Ottawa

Hon. John E. BROCKELBANK, M.L.A.
Speaker of the Legislative Assembly
of Saskatchewan

Subjects:

- I. *Committee Changes in the United Kingdom*
- II. *Financial committees of the United States Congress*

Main Presentations:

- I. Mr. Kenneth BAKER, M.P.
House of Commons, United Kingdom
- II. Dr. Walter KRAVITZ
Senior Specialist
Congressional Research Service
Library of Congress, Washington

Participants:

Hon. Peter ADJETEY, M.P.,
Parliament of Ghana

Hon. Bennett CAMPBELL, M.L.A.
Leader of the Opposition
Legislative Assembly of
Prince Edward Island

Mr. Joseph-Roland COMTOIS, M.P.
House of Commons
Ottawa

Mr. George CUNNINGHAM, M.P.
House of Commons
United Kingdom

Mr. Peter DOBELL, Director,
Parliamentary Centre for Foreign
Affairs and Foreign Trade, Ottawa

Dr. Maurice FOSTER, M.P.
Chairman, Federal Branch, CPA
House of Commons, Ottawa

Hon. Harry GRAHAM, M.L.A.
Speaker of the Legislative
Assembly of Manitoba

Mr. Philip LAUNDY, Director,
Research Branch,
Library of Parliament, Ottawa

Mr. Patrick REID, M.P.P.
Chairman, Public Accounts
Committee, Legislative Assembly of Ontario

Tuesday, October 16, 1979

Afternoon Session

—Summary—

Part I - Committee Changes in the United Kingdom

Mr. Baker began by setting the context for parliamentary reform in Britain: the cabinet, the opposition, and government backbenchers were all pressing for changes -if not all in the same direction and to the same purpose. The fundamental problem, in Mr. Baker's view, was the growing degree of executive dominance.

Mr. Baker then outlined the activities and the conclusions reached by the Procedure Committee, which proposed some far-reaching changes in its July 1978 report. In discussing the committee's deliberations, he observed that it tended to divide less along party lines than according to age (traditionalists vs reformers).

After setting out some of the contending arguments, Mr. Baker explained why the committee decided on particular recommendations, for example the proposal that "departmental" committees be struck to shadow government departments and the proviso that these departmental committees not consider legislation. He also discussed two particularly contentious recommendations made by the Procedure Committee: that the committees' powers to summon witnesses be strengthened and that committees studying bills hold public hearings.

From Mr. Baker's viewpoint the initial reaction of the Labour Government to the report was cool, while the Conservatives were generally sympathetic. After the change in government, a new committee structure was put in place, essentially as recommended by the committee; however, the new committees had yet to get underway. Mr. Baker concluded his remarks with some speculations as to the future of parliamentary committees and of parliamentary government, with particular reference to the power of the whips, the limits to party loyalty and reduction of partisanship on issues such as nuclear power.

The discussion which followed covered a wide spectrum of issues, including committee size, staffing for committees, television coverage of committee meetings, the British experience with an Expenditure Committee to deal with estimates, the possibility of reducing the whips' influence and the extent to which committees can and should aim at changing the adversary nature of their work.

Tuesday, October 16, 1979

Afternoon Session

—Summary

Part II - Financial Committees of the United States Congress

As background to his remarks on the American committee system, Dr. Kravitz presented a brief account of the principles underlying the Congressional system of government, with particular reference to its differences from British parliamentary government. He explained the "separation of powers" and the complex, often antagonistic relationship between the legislature and the executive. Dr. Kravitz also set out the extremely important implications for the working of Congress of the lack of party discipline. He stressed that the elements of the system are all highly interdependent and uniquely suited to American needs, so that adopting any single aspect of the Congressional system to a Parliamentary system is a very uncertain business.

Dr. Kravitz went on to describe how well suited the committee system is to the overall operation of American government. Committees are key elements in the Congress' battles against the President; with their resources and their staff support (several thousand people in total), committees provide the expertise Congressmen need in their confrontations with the executive. Committees also provide the setting in which the President's policy and budgetary proposals are amended or rejected by the Congress.

Dr. Kravitz explained how the jurisdictional boundaries between committees and the extensive subcommittee system work to the advantage of individual Congressmen by ensuring that everyone has power and influence in some particular sphere of activity. He concluded his talk with a brief sketch of the appropriations process and the new budget process.

Topics raised during the questioning from the audience included committee size, the relation of subcommittees to the full committees, the staffing and funding of committees, the link of particular tax measures to the funding of specific programmes, and auditing of public spending.

COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
TUESDAY, OCTOBER 16, 1979

The seminar resumed at 3 p.m.

Mr. Holtby: Ladies and gentlemen, we will commence the Tuesday afternoon session. The chairman for the first session is Dr. Mark MacGuigan, a member of the House of Commons of Canada. He was first elected in 1968. He is a former parliamentary secretary to the Minister of Manpower and Immigration and of the Minister of Labour. He is a professor of law, formerly at the University of Windsor where he was Dean of the Faculty of Law, and at Osgoode Hall, here in Toronto.

I would say one of his important projects directly outside of parliament at this time, in addition to his civil liberty interests, and so forth, is that he is a member of the editorial board of a new publication which a number of the Canadian members will be seeing shortly. It is called. *Parliamentary Government* I'll ask Dr. MacGuigan to begin the proceedings this afternoon.

The Chairman: Thank you, ladies and gentlemen, mesdames et messieurs. It is good to have this opportunity of standing up here if only to help our distinguished visitor to get his remarks started.

In fact, since we heard his eloquent reflections on political leadership this morning, I could almost let that stand by way of introduction. It does very much give us the measure of the man, but it wouldn't be fair to us not to have a little bit of additional information about his background.

He was first elected in 1968, the same year as I. He served in the Heath Government as Parliamentary Secretary to the Minister of State for the Department of Employment from 1970 to 1972 and as Parliamentary Secretary to the Minister for the Civil Service from 1972 to 1974. He admits he is sometimes referred to in British Conservative circles as a Heathite.

He has been very active in parliamentary reform. In fact, the two occasions I have met him previously have both had to do with that. One was at a conference in England this past June.

Before that conference, he came to Canada to look at our system of committees, in his role as chairman of the subcommittee of their Procedure Committee, which was aimed at making a considerable number of changes to the British parliamentary system. I don't know whether he's applying his management expertise to this field but, if so, it's quite obvious he has more than just a unequivocal attitude toward efficiency, because the Procedure Committee's proposals for committees are certainly not aimed at making the government's life easier.

It is interesting, that he chaired the subcommittee which made the reform proposals on committees which have been adopted at Westminster and are now being implemented. Other reforms, in other hands, have been left to later implementation. He has been very successful in this job, which he undertook for the United Kingdom Parliament. It is, therefore, a pleasure for us to hear from him on the reforms. We will have a chance for some dialogue with him after his initial presentation. Mr. Kenneth Baker.

Mr. Baker: Mr. Chairman, ladies and gentlemen, first I would like to thank the Legislative Assembly of Ontario for inviting me to participate in this seminar. I am very grateful to be here, and to add a small contribution to your discussions.

The only other time that I have been to Canada was in the company of George Cunningham. We seem to be only allowed to come here together, which is very nice for us, but I don't know what it's like for the Canadians. You heard him speak yesterday, and it must be very clear to you now that George Cunningham has a rather special role in our Parliament, and in the Labour Party for that matter.

He's sort of the captain of God's awkward squad, and he has had a quite remarkable effect upon the proposals of the last Labour government on devolution. It was his amendment, for those of you who want to

wreck whatever the referendum says in Quebec, the ingenious device which George Cunningham devised was that, irrespective of what the voters said, there had to be an approval of at least 40 per cent of those entitled to vote, that said "yes" to the devolution of Scotland. That is quite different from having a simple majority.

In fact, there was a simple majority in the referendum for the devolution of Scotland, but the Cunningham amendment said that it had to be 40 per cent of those entitled to vote. Of course, in any election, as you well know, you are very lucky if you get 75 or 80 per cent to vote.

As a result of that, the Labour government's proposals on devolution were shipwrecked, and as a result of that shipwreck the Labour government was shipwrecked.

So the relation between Mr. Cunningham and Mr. James Callaghan is a cool one, and I think, to paraphrase Shakespeare, George could rightly say he came to bury Caesar, not to praise him.

We have been implementing in the last few months some substantial changes in our procedure in the House of Commons, back in Westminster. I thought it would be interesting to first analyze for you, why we ever undertook a program of reform; because if you analyze the reasons why you undertake a program of reform, you will see the various strands that run into it. You will also see that many of those people who wanted reform, or a particular version of reform, by the time they have gone through the process we are going through, they are not going to meet their objectives, or they are going to be very different objectives to what they thought.

The first group of people who wanted a change in our procedures were the party managers; the Mr. Hatfields of this world, who, when they thought in terms of parliamentary reform, meant only one thing: that the whole process of passing bills should be made more efficient, i.e. quicker. And this was the view of the then Labour leader of the House of Commons, a man whose name you will not know, called Ted Short, and then Labour Chief Whip, a man called Mr. Mellish. They were both clearly of the view that, as far as passing bills was concerned, the House of Commons was archaic, inefficient, and when they spoke of reform, they meant one thing: speeding up the sausage machine-like process through which bills go.

This became very clear in the evidence they gave to the committee. They wanted, for example, all bills to be timetabled, so that when the bill left the floor on the second reading, it would have a date affixed to it, three or four months hence, by which time it had to come out of committee. They solemnly proposed this, because they said this is really what the House of Commons wants. They thought they were doing a great job for their backbench members in the House of Commons, particularly for the Labour backbench members, because they wouldn't have to stay up late at night waiting to get legislation through. They believed, therefore, that if we had these sort of changes, you would make the whole process more efficient. That's what they meant by reform.

Then there was the opposition view. I have to explain, just for a short moment, what the political situation was in the U.K. in 1976.

The Labour government's overall majority had by then been eroded by election losses, and they did not command an overall majority in the House of Commons, but they still behaved as though they had an overall majority. This was the view of the opposition and therefore my view is bound to be partial. You must forgive me for being partial.

We believed that they were trying to govern in a very autocratic way and were not observing the conventions of our constitution. There was a famous occasion when the Speaker of the House of Commons made a ruling about a bill which was to nationalize our shipbuilding and aircraft industries. He ruled that the bill was hybrid. I don't know whether you're familiar with hybrid bills. If the Speaker rules a bill is hybrid, it goes through a very complicated and different procedure. It basically means that the rights of some individuals, or groups of individuals, are adversely affected by part of this public bill, and it has to really start life again. It goes through an entirely different procedure where you have barristers actually pleading the case before a committee.

One of our constitutional experts persuaded the Speaker that this very important political bill was hybrid. A Socialist government which wanted to nationalize the aircraft industry, wanted to nationalize the shipbuilding industry, had suddenly a ruling that their bill was hybrid, which in effect killed it.

On the very next day, the Leader of the House of Commons, Michael Foot, tabled a motion reversing the Speaker's ruling. We thought that was pretty hot. On top of that, when the vote was taken, they won by one vote and what's more, they cheated because the Government Whip, who was paired, actually went through the lobby. So in our view this was a double cheat. George Cunningham, yesterday, was saying it's the job of the government backbencher to stand up and be counted. Where were the government Labour backbenchers when this constitutional skulduggery was happening? On which particular constitutional barricade were they preparing to lay down their lives for freedom and liberty? They were to be found, as you might expect, in the government lobby.

We felt that there was a bending of the rules. The opposition view was that parliamentary reform should, in fact, take into account all that sort of, as we believed, constitutional manipulation.

There was also a very romantic view amongst one or two of the extreme rightwingers in my party, that parliamentary reform should basically be undertaken to gum up the works. They are the people who believe that government, basically, is best when it's doing least, and therefore we should not try to introduce proposals to facilitate the process of legislation. The job of an opposition and of the Legislature is to make it rather difficult for the executive to get its way. That was a very minority point of view.

The third point of view, which I think is more substantial than the others, shared by many of the younger members in our House, is that the House of Commons was not really being very effective in the way that it scrutinised government, and particularly the expenditure of government. We were passing on the nod, vast sums of money, hundreds and thousands of millions of pounds, without really calling the individual departments to account. Sometimes, we would make a great stir about something very small; one road; one school; but in the immediate next vote we should nod away or vote on thousands of millions of pounds. Clearly the actual detailed expenditure of government departments was not being scrutinised, and I dare say it's the same in most of your Legislative Assemblies.

This is the trend of which Mr. Hatfield thoroughly approves. But we felt that part of our job, as elected parliamentarians, was to comb through in detail the expenditure of government. You can't do this on the floor of the Assembly, either here or in Westminster or your own Assemblies. You simply cannot do it. You cannot ask the penetrating questions.

Question time is easy for any government. Any minister who gets bowled out at question time deserves to get bowled out, because you cannot follow up, you cannot put the penetrating, probing and defeating questions in supplementaries. You can only really do this in the mode of a committee. So there was that view as well. The fourth trend that was wanting reform was a much more fundamental one and one that we touched upon this morning. That is that in our constitutional setup in the UK, there was an enormous imbalance between the power of the executive and of the Legislature. Over the last few years, certainly since I have been in politics, the power of the executive, of the cabinet, of the prime minister, of the government of the day whether it was Conservative or Labour, was getting more and more powerful at the expense of the House of Commons, at the expense of the Legislature.

Now this is exactly the reverse trend, of course, to that in America. Several people have already spoken from their great knowledge, not being Americans, of what has been happening in Washington. But it seems to us looking from afar that the trend in the States is that Congress has become steadily more powerful and the President has become steadily less powerful. A combination of factors—Watergate, weak presidents—has lead to this. But it now strikes us in Europe as remarkable that, for example, when the President produces an energy policy he simply cannot get it through the Legislature of the United States of America, or can only do it at such enormous political cost that his reputation is ruined.

It is exactly the reverse in the House of Commons. The power of the government of the day exercised through the whips is in fact overwhelming. George Cunningham was very interesting about this yesterday. He said that the position of the government backbenchers, i.e. Labour when he was in office and

Conservatives, now that we are in office, is very important. But I wouldn't go all the way with him to say that the government backbenchers are the custodians of freedom and liberty because he was speaking at a very, very unusual time. From 1976 to 1978 there was a hung parliament in Britain, something that we had not known since 1867. We had a government that was trying to get through a Labour program but did not have the Labour votes to do it, and it had to make all sorts of compromises. Now in that sort of situation, a group of determined backbenchers, and it would only have to be a tiny number, can really influence government policy significantly.

And George, on the particular issue of devolution of Scotland, had a group of Labour backbenchers, about 12 to 15, who were virtually kamikaze pilots. They were determined as it were to bring their planes on the control tower of the battleship. They did it with considerable courage and considerable verve and considerable ingenuity.

It is, of course, very different now, because the majority of the Conservative government is 43 overall, that is overall of the other parties and in effect it is a majority of about 55. It is idle to think that you would get over 50 Conservative members of parliament, backbenchers, for all the various reasons that George was talking about yesterday—the hope for office, the hope for renomination, the patronage that the prime minister has in our system, and I suspect in most of yours—to in fact rebel on that scale.

These were the various elements that led up to a ground swell for a change in our system. The committee began to sit in 1976 and we were sitting for nearly three years. What was interesting about that committee was, first, we did not divide on party lines. If anything, we tended to divide on an age basis. The younger members on both sides of the committee tended to be in favour of change and the older members on both sides of the committee tended to be rather reluctant to have change. Well that is human nature.

We did not take very much evidence. The only witnesses we heard were politicians or clerks of the House. In fact Alistair Fraser was one of the clerks, the only clerk from an overseas country from whom we heard evidence. We were pressed to hear evidence from every Tom, Dick and Harry and particularly from the vast army of academics.

You know, in each of the assemblies in which we serve, there is another great shadow army marching behind us, a great army of camp followers who are based in universities, academics, teaching people about us, who are explaining our strengths and weaknesses, and particularly our weaknesses, to a another great army of students behind them. They all have very good views as to how things should be run. They sent us lots of evidence and they were very peeved when we didn't take any evidence from them. We, of course, read their evidence and gave it the due weight which we thought it deserved. But we did not, in fact, take evidence from them because we felt as elected representatives who have been around our assembly for a number of years that actually we knew a thing or two about what was wrong and what was right.

Most of our deliberations were therefore discussions in private. It was a marvellous educational process I think for us all. We had some great characters on the committee, including Enoch Powell and people like George and some of the younger Labour and Conservative members.

We came out with our report and there were basically two sides of it. The first one was to set up 12 departmental committees. Now George referred to these as subject committees yesterday. I think I prefer to refer to them as departmental committees because they in fact shadow the 12 major departments of state. A subject committee—we rather rejected that type of committee. We had some subject committees like a committee to look into overseas aid, one to look into nationalized industries and one to look into race relations. We rejected that approach in favour of having 12 committees shadowing the 12 main departments.

We have more than 12 departments but we couple them altogether so we have just 12 committees. They, as you would expect, are the treasury, foreign affairs, defense, home, energy, transport, agriculture and fisheries, education, health and social security, employment, industry and trade. Those committees consist of membership of between nine and eleven, and four of those will be allowed to set up subcommittees.

The idea behind those committees is that they will shadow the departments. We have given them very wide powers so they can do what they want. We hope they will do two things. First they will take the estimates of each department and go through them in detail. Now we are not saying that the committee should do that but we express the hope that that is what they will do. They will be established in a fortnight or so, as soon as we resume, which is next Monday. I would hope that one of the first tasks each of those committees does is to go through the estimates and forward estimates in the next year and call before them the ministers and civil servants involved, and probe into the expenditure, not just on candle ends, not just saying, "well, is this the best way of spending this money or are you going to spend it most efficiently." What they should be getting at is, "Is this the most effective way of spending the money to achieve the policy objectives?"

Take the prison program. Is it the most effective way to have so many prisons and fewer Borstals or fewer corrective centres? What is the policy behind the expenditure which is dedicated to our penal services? Now this is of course very different from what the Public Accounts Committee does. Our Public Accounts Committee, a very powerful committee, goes into the expenditure on the prison service two years ago or a year ago. They will see whether the money that has been allocated has been properly spent and some official hasn't misspent it or misapplied it or there isn't gross mismanagement in some prison. That is interesting but it is essentially a post-mortem exercise, though a very important exercise because it keeps the bureaucrats on their toes.

What these committees will do, I hope, is get into policy at a formative stage and ask ministers the questions, "Now is this the most effective way of spending £500 million, to achieve the objective?" and even saying to the ministers, "What is your objective? Is it punishment? Is it protection? Is it regeneration or whatever it may be."

The second thing that they will do is to undertake special studies. For example, the one on education could do higher education or nursery education or new teaching methods or the impact of computer technology upon fifth and six forms or whatever it may be and then they would take evidence from outside people. They would sit as a sort of court of inquiry, these select committees, and they would call evidence before them and produce the report.

What they will not do is undertake to look at bills. If a bill comes up on education, the education select committee will not look at it. You may say why not because here in Canada that's exactly what you do; it was having seen what you do that led us to believe that it was not the most perfect method of dealing with things.

What we saw here were committees that did the estimates in detail, that also did special studies and also looked at bills. Of course it's an enormous program to deal with all of that and with great respect if I may say, being a guest in your country, we have the impression that the pressure of time was so great that one of those functions wasn't being done properly and I say that with all humility if I may say so. There isn't enough time, not if you are full time legislators, to do all of that particularly when you are involved with a bill.

In our system we have very few time controls on the examination of bills and so if we gave these select committees bills, they literally would not have time to do the other functions. Our bills are going to be dealt with in another way which I will mention in a moment.

What are the advantages of this system? Well, first, it is entirely new for us. We have tried rather similar things in the past but they haven't worked out. It will only be effective if members are prepared to put a lot of work into it because it does mean the study of a lot of papers. It does mean mastering the subject. It does mean probably becoming rather a specialist in the subject. But it's no good just working away in committees upstairs because as you well know, the press don't often attend committees. They may attend committees if there is going to be a great row. One committee we saw working in Ottawa was the committee dealing with gun laws and they were taking preliminary evidence, I think in the pre-legislative stage, on whether some new law should be introduced on the control of weapons in Canada.

The Chairman: It may have seemed like pre-legislative but the bill was there.

Mr. Baker: The bill was there? Well, every blocking mechanism was being used imaginable in it. It's a subject of course which Europeans always find extraordinary when we come across to North America, your attitude to this particular matter. But it was quite clear that that was going to be bogged down for a very long time. Whether it ever saw the light of day, I don't know.

The Chairman: In a very weakened form.

Mr. Baker: A very weakened form.

The Chairman: It took four months, that process that you saw.

Mr. Baker: Right. However, as it was politically interesting, there was a lot of press there and I remember the Minister of Justice at that particular session holding up a blunderbuss or some extraordinary old antiquated weapon and making some point about it. The next day in the press, the only picture was the Minister of Justice holding up this enormous blunderbuss.

The reason why I mention that episode is that when something like that happens in a committee, the press go there but for 99 sessions, the press will not be there. You have to bring what happens in committee upstairs back into the reality of political life, into the centre of the political stage, and bring it back to the floor of your assembly. So we recommended that there should be so many days a year when the work of the committee should be taken away and debated on the floor of the House. The government in fact didn't quite do what we wanted but it said it would undertake to do that. I think it's a very important point.

The second thing that we suggested was that the powers to summon witnesses should be strengthened, which my government didn't quite accept either. We have had two instances in our Parliament when people have refused to appear before a select committee. One was a minister, a Labour minister called Harold Lever who was told by Harold Wilson, the Prime Minister, not to appear before a committee and he didn't. Everybody remembers this in our set-up because it was such an exceptional situation and I don't think would ever happen again.

The other experience was when the head of the steel industry in Britain refused to come because he got all his figures muddled. He was really going to be taken to the cleaners and he decided not to come. We eventually set a messenger like these people in black jackets except we used a woman to do it. She went, summoned him, virtually arrested him and made him come. We felt therefore that the powers of the committee should be strengthened to insist upon attendance. The government in fact didn't accept that, and in a way I think they were right, because if someone doesn't appear before a select committee, there's a major political row. So, in effect, ministers will attend select committees.

We also suggested that the chairman of these committees should have an extra payment, an extra salary, to reflect the amount of extra work that they would do, and also to create another little sort of career pattern for the back-bencher approach that George Cunningham epitomized yesterday. These chairmanships would not be in the gift of the Whips and the Ministers, and the Prime Ministers, so that you would have another channel, as it were, of career progress. This was, however, not accepted by my government.

We did not suggest substitution on the lines that you have, because we thought that the method you have was little short of musical chairs. One of the most effective results, as it were, of this change, is to have a continuity of experience, so that the same members do sit on that committee every Tuesday morning at 10:30 and really apply their minds to it and it's not Joe who's been pulled in from the corridors by the whips just to make up numbers or a quorum. That seems to us to be pretty farcical.

These committees are about to be set up. The membership should be announced within a week or ten days. It does mark a very considerable change for us. The other part of our recommendations affect the dealing with bills, or what the Americans would call, I think, marking up bills—going through the bills in detail. Now, we have an entirely different system of committees for that.

We've suggested that there should be what is called a Public Bill Committee, so that when the minister introduces a great bill on housing, which we're going to do in about a fortnight's time, that bill will receive

a second reading, then it will go to a Public Bill Committee. That Public Bill Committee will be a committee which deals with that bill and that bill only. It will only sit for about four or five months. And it will begin by taking evidence for the first three sessions, from the interested parties: the mortgage companies, the pressure groups that want more public sector housing, the builders, who want more land freed so they can build more private houses. And you can hear all the voices: the trade unions and the building industry. Then, after three sessions of taking evidence, you go into the normal business of going through the bill clause by clause, line by line. And that bill will come up later. That's what we proposed.

The government is dragging its feet on this, because it doesn't like those three investigatory sessions at the beginning. But we think that will be a very important way of getting the public's voice in edgeways on important legislation. We preferred that to a pre-legislative stage, which some of your assemblies probably have. Anyway, that is still to be implemented.

Then there were a lot of minor matters. For example, we as back-benchers, we as members of parliament can't, in the Mother of Parliaments, control our times of sitting. We are entirely in the hands of the government, totally and completely. We made some modest suggestions. The irony of it is—and this is very striking for someone from the United States, because Congress there is in charge of its own sessional times, and made changes in them two years ago or so. We cannot do this on our own initiative. The power of the government, certainly in the British system, lies in the fact that it is the government of the day that determines the agenda of the House. You can't get anything on our order paper of significance without in fact the approval of the government. That is a slight simplification, but by and large, that is the effect of our system. And so we say that we should have a bigger say in controlling our session times.

As you probably know, the one feature that most people the world know about the British system, is that we sit very late at night, well into the early hours. Two or three o'clock in the morning, quite regularly, and certainly as the new government under Margaret Thatcher has such an enormous legislative program, we'll be sitting very late for the next year. We suggested in our committee that we should erect certain hurdles, and if we want to sit beyond 10:00 at night, two hundred members must be present in the Aye division lobby to continue. I suggested that past midnight there should be 400 members. The jumps would get a little higher as you went round the course. These are proposals which I think it's unlikely the government will accept.

Then there were various other complicated matters which I won't go into because they are very parochial, as it were, British matters: our handling of European legislation, which is imperfect, and our handling of delegated legislation.

What will be the effect of all this? I've dealt with what I thought were the causes of this movement. I've dealt with what happened. What's going to be the consequence? What's going to be the result? The new Conservative government was sympathetic to the whole ambience of this report. The previous Labour government was very cool about it. Jim Callaghan, the former Prime Minister, was very cool about it, Michael Foot, the Leader of the House was very cool about it. The attitude of the managers of the Labour Party was basically to get the stuff through quickly and get the lads home early to sleep, and that meant in fact using the power of a majority to do it. But the new Conservative government was much more open about this and said that they welcomed many of these changes. They've already implemented half of them.

What will be the effect wider than that? These changes I'm talking about are still principally a House of Commons matter. The election was not determined in any way, shape or form in the UK on what the parties stood for in procedural change and parliamentary reform. There are no votes in that. By the time you explain it all to the electorate, they've gone off to sleep. They're not interested in this, and it is quite understandable. It's a very sort of inward-looking legislative matter.

Nonetheless, it is important because one hopes that as a result of all this the actual government of our country in going to be rather better than it was. If we didn't believe that, we wouldn't have undertaken these enormous changes. Will the government be better? Hopefully, yes. I think it is right to call government departments, and the vast army of the bureaucracy, more to account than they have been called to account in the past. The whole reason, ladies and gentlemen, why we are here as elected representatives, whether we come from Ghana or from the West Indies or from the UK or from Canada, is

that we were elected, as it were, to have some control over the purse strings of government. That was certainly the whole history in the 16th and 17th centuries in our own countries. The House of Commons came together as the body that granted the supply to the Executive, to the Crown. This is a function which, of course, is clearly defined in the American constitution because they devised it upon what they thought was the 18th century operation in the UK. But it's something which we tend to overlook; and that is the purpose of the Legislature. We represent the people who are going to pay money to government. We, therefore, must act as custodians of their interest to make sure they get value for money. I believe that the system we are establishing will improve that.

The power of the back-benchers will be improved to some extent. For example, how are these select committees that I've talked about actually appointed? In the old days, they were appointed by the whips. The whips would so arrange committees that they had good, sensible, docile people on them. The chairmanship were given to those people who had not quite made ministerial office. It was a good reward; "well done, let's see him out for the next three or four years". This time we suggested that the actual appointment should be made by another committee that we have, the Selection Committee. That's very close to the whips, but at least it's one removed. It's one step that way or that way, whichever you prefer, but it's one step away. Next time they come around to appoint these committees, it'll be two steps away. That committee, I hope, will become a much more independent committee and will, therefore, not be so subservient to the whips. That's an important change.

Finally, is this all going to weaken the political parties in our country? We touched upon this this morning. I think this is one of the most interesting developments in the western world. It is very difficult to imagine politics in Britain, and I imagine also politics in Canada, though less in America, outside the context of the organized parties, of the party political system, the two-party system as we know it, or the three-party system. Some people say having all these committees will weaken control of the party whips, of the caucuses, of the party; this was very much Mr. Hatfield's theme this morning. He is there to govern the place, he is there to get through his manifesto, he is there to make quite sure all those guys back him 100 per cent, and it was quite clear if they didn't back him he was going to sack them, and that has been very much the whole impetus of our government in parliamentary democracies.

But of course by setting up these sort of committees you are to some extent unstringing that particular musical instrument, because you will be putting people into positions where they will become experts, where they will not particularly want to follow the party line on nuclear power, for example, an issue which is going to face all our countries in the next 10 years, and is already facing some of them this year. Is there a party line on nuclear power? Is there something which a Liberal says, "I have a view which is so different from a Conservative," a New Democrat says, "I have a view which is so different from a Liberal?" I doubt it. There are different, very strong views on nuclear power, and the parties may decide to take views upon them but they know perfectly well that within their ranks there will be lots of people who have very different views. This is just the sort of issue, just like the social issues of five or ten years ago, like abortion or divorce or birth control, which tended not to be party issues. This is the sort of issue which I think will not become so much a party divide issue.

This will have some weakening effect, I think, upon party organizations and allegiances in our countries. This, you may think, is a little starry-eyed. I don't want to exaggerate it too much, because basically we're all elected. Certainly I could speak for the British Members of Parliament because we stand with the party label. If I stood as Kenneth Baker, independent for St. Marylebone, as popular as I am in my constituency, I do not flatter myself to believe that I would be elected, and if George Cunningham stood as independent in Islington, he would not be elected. We are essentially party nominees. But the party organization is getting looser, certainly in the United Kingdom, and more fluid, and can accommodate a great deal of dissent.

There is a very delightful story about my old college at Oxford at the turn of the century when they had the clerical dean, Dean Thompson, who took the services in the chapel, in those days two or three services a day, until he wrote a book proving that the miracles could not have happened. Nobody really minded this. Then about two years later another book proving that the Immaculate Conception couldn't happen. People frowned a bit but they didn't mind that. He still went on as the dean conducting the services

in the chapel. About three years later he wrote a book absolutely proving that the Resurrection couldn't have happened, whereupon a visitor to the college, the Bishop of Salisbury, thought it was about time to have a word with the dean and suggest that if he didn't actually believe in the miracles or the Immaculate Conception or the Resurrection perhaps he should just sometime in the near future consider his position. He did and he resigned as the dean of Magdalen College and stayed on as a history tutor and became the great historian in our country of the French Revolution.

I only tell this story really to demonstrate that you can go quite far down the road before you actually part company with your body of beliefs, but there does come a stage, and obviously, as a Christian dean not believing in the Resurrection, was the point where you had to go.

I feel that all around in our countries the parties are being much more accommodating to the sort of different views that are now felt.

I don't want to exaggerate this effect of committee changes upon parties in our democracy, but it is one of the small effects.

I have tried to share with you our experience as to how things have happened in the United Kingdom, and how they are happening. It's a developing situation, as it must be, because our democracies only keep alive by change, and if we do not change we ossify and decay and the bones become brittle and break off. But we are capable of change and I think of constructive change and fruitful change. This is quite a big change and a big experiment for us, and we hope it is going to succeed.

The Chairman: Who would like to begin the discussion? Dr. Foster.

Dr. Foster: Thank you very much, Mr. Chairman. I certainly enjoyed having a chance to hear Mr. Baker. I think that he has really put his finger on a lot of the problems with the committee system as we have it in the House of Commons in Ottawa.

Many of the observations that you made about the committees being overloaded are, I think, well taken. I think they were overloaded before and they are going to be that much worse in this session of Parliament, because apparently we are going to have about five or six special committees, meeting and doing studies as well.

I think the idea of having a special bills committee is a pretty good one. That may well be one of the directions that the special committee that is going to be studying committees will be recommending back to the House. I believe Mr. Friesen is going to be talking about that on Thursday morning. He will probably be telling us what the government's intentions are in that regard.

I personally feel that in Ottawa the committees are far too large. We have about 20 on the standing committees and 30 on some of the larger committees like External Affairs and Agriculture. Inevitably, we end up with seven or eight people being there most of the time and the committee sitting without even a quorum. I personally believe that committees should be smaller, that membership on them should be a real prize to achieve; whereas now, if you just want to attend the meetings of any committee in the House of Commons, for a few weeks, pretty soon the whips will put you on because they have so many people absent.

I think that the movement in the House of Commons eight or ten years ago was to send all the estimates and all the bills to committees; and then we would be able to pass all of our legislation. It really hasn't worked out that way. Without some kind of allocation of time, we end up with only some 50 or 60 bills being passed a year and some of those are very small. Unless you have some system in your Parliament to expedite the movement of legislation having standing committees dealing with bills really doesn't seem to be that successful.

I like the idea of paying chairmen. I have been a parliamentary secretary and I've been a chairman of various standing committees. I think that their roles are very comparable in ability and time involvement.

I like the idea of special studies and of the estimates going out to committees and I think that has been especially successful in Ottawa. I think we have to be careful as members not to become the tools of government, to be given a lot of busy work. The present government in Ottawa has said that they are going

to refer all annual reports of Crown corporations to the standing committees. That is something like 380 annual reports of Crown corporations. If the committees were to seriously try to cover those, it would be a disaster. We would be bogged down at busy work and accomplishing nothing.

Mr. Baker: There was a slight element behind all these reforms in the United Kingdom, probably a bit more noticeable in the Labour party than in the Conservative party, on the very point you've touched upon there, that we must find something for all these 635 members to do because we don't want them buzzing around making our lives hell. "Let's find them something useful and creative to do and so let's create lots of committees." There was a slight element of that. I never gave it much credence, actually I agree with you on sizes. If you do the sums—12 select committees with an average membership between 9 and 11 and if you have a committee of 9 or 11, usually 7, 8 or 9 will actually be there so they will all get their oar in—that's about 120 people involved in that sort of operation out of 635. Bear in mind that out of 635 roughly 100 are ministers and about 50 are shadow ministers so you still have about 400 left and 120 in committee is not too burdensome.

There is one other thing that I should also have mentioned. We also recommended that these committees should be properly staffed. Now this is nothing like the American system, 40,000 on the hill, a counter-bureaucracy. That is too small, sorry.

A Delegate: Yesterday it was only 5,000.

Mr. Baker: The committees will be allowed to appoint experts and they will, I imagine, do it on a very modest scale to begin with. They will probably appoint at the most one, two or three people who will advise the committee and analyze the papers. It will be nothing like the sort of committee staff that there is in the States or indeed your committees have. You have quite large committee staffs don't you. We noticed that when we were over there. But the basic thing is that if the committee is going to work well they've got to be properly briefed.

Dr. Foster: There is one other point I wanted to make about taking the subject matter back into the House to get some national coverage on it. I think there is an experiment being proposed in Ottawa this year to try to have some coverage, whether it is television or radio or both I am not sure, for one or two committees. We found that televising the House has been really important and if we televise a couple of committees on a permanent basis, I think it will be very beneficial in giving some importance to the backbenchers who are working very hard but not getting any coverage.

Mr. Baker: Well the televising of committees I think will be very effective indeed. But don't believe for a moment that it will be like a whole lot of Watergate hearings. So many people believe that if you start televising committees you have a series of "Senator Sam" Watergate hearings.

The American senators and congressmen are rather good at asking questions of people. It is a different technique from debating and they had a very juicy subject there. But it could be a very effective way of showing how Parliament can call people to account if we televise them. I am in favour of that.

The Chairman: Mr. Baker has been so helpful to us that I wouldn't want him to go back with misinformation. We have no committee staff here at all, and I think the people who you mistook for committee staff were probably the ministers' assistants who were undoubtedly scurrying around handing him the blunderbuss that he was going to hold up.

Mr. Peter Dobell.

Mr. Dobell: I applaud the thrust of the reforms in the UK House. I am a little surprised, however, with some of the messages that you took back from your Canadian experience. Certainly you are right about substitution. I think most Canadians would say that one of the best things that is done by our committees is their handling of bills, whereas what they do worst is the handling of expenditure.

You have a very effective way of handling bills so I can see quite appropriately that you continue that system. But I think that there are a lot of Canadians who are wondering if we wouldn't be wise to pick up what you are just dropping: an expenditure committee. We do have, in the Senate as distinct from the

House, a system which is somewhat analogous to your expenditure committee, and I think those who know something about it are usually fairly impressed by what has been done by that committee.

It seems to me Legislatures always reform themselves by swinging like a pendulum. You can't stand it any further at one side, so you go right over to the other extreme. I think it will be interesting for you to look in five years time to find out if your reviews of expenditure have really improved. I think that your committees of inquiry will be much better.

It is interesting that you sit beside Mark MacGuigan who was chairman of a subcommittee on precisely the issue which you were talking about, penal reform. The committee did it as a standing committee, and the results were quite exceptional. But I don't think he would ever be proud of what his committee did in review of estimates. I hope that you will keep open the option.

It is interesting that when you took evidence from Alistair Fraser, who is a man given the cautious expressions, he said—and I think I remember the words exactly—"I implore you not to adopt the Canadian system of reviewing expenditure." So do keep open the option of reforming yourselves.

Mr. Baker: I should perhaps emphasize that for the select committees, in my view—and I hope they work this way—that will be their first task, to go through the estimates, the expenditure of the departments, and do it in the sort of detail which has never been done in our country before. We had a blunderbuss to say we will not pass the defence estimates. What the left wing of the Labour Party invariably does each year is to stage votes on the floor of the House on parts of the defence estimates. They just have automatic votes at 3:30 in the afternoon every five of 10 minutes opposing them. That's the way they are. No one is really scrutinising that expenditure, or asking whether our expenditure on the troops in Germany or Polaris or NATO or wherever it may be is really effective and worth while in achieving the objective, which is the best defence of the west. The whole purpose of the Defence Committee will be to start with the defence estimates and to comb through them in considerable detail, not worrying that the Ordinance Corps has got three great warehouses full of boots of the wrong size—that's nice to know and it's jolly good, but that's work for the Public Accounts Committee—but getting to grips with the underlying policy behind the money.

That should be what legislators do. If you were legislators with a bit of spunk in you, that is what you should be concerned with. You should be saying; "I'm not going to be fobbed off on inquiries into the ordinance factories and warehouses that have got lots of missized boots—that's quite important and we'll do a bit of that—but I want to deal with the policy before the cement sets around it, before it becomes absolutely rigid and we are committed to either cutting our defence expenditures substantially or increasing our defence expenditures substantially. That is what people who are elected to be the guardians of the public purse should be most concerned about.

Mr. Holtby: Mr. Baker, I wanted to ask you something about life as a politician in the world of committees. It seems to me that for Canadian politicians an essential element in their political life is publicity. Could you reflect on the amount of publicity you received in the British media, focusing on your committee work? You devote an immense amount of time to it. What are the fruits that come back?

Mr. Baker: Apart from articles which I write on procedural matters, there is not much political sex appeal in procedural reform, let's be frank about it, on just procedural matters. There's not a great deal. It's a very inbred thing in which that great army of camp followers behind us are very interested. It's going to keep them going for years.

On committee work as such, there isn't too much coverage, I shall be frank with you. There has been, if you can make the actual matter relevant and timely. For example, within about three weeks the new government in Britain will be producing a white paper on public expenditure cuts which will be very contentious indeed. If the Treasury Committee has been set up by that time, one of the first things that Treasury Committee should do is to take that white paper and call before it the Chancellor of the Exchequer and other ministers and the head of the Treasury. That session, which will be broadcast, will be very lively indeed and it will certainly be taken up by the media because it's pertinent, it's happening.

In the last Parliament, we had a lot of trouble with our motor industry, which we are going to go on having trouble with. The committee that dealt with that produced very quick reports and got a lot of coverage. It's no good producing reports in committee about events two years old, that's the public accounts committee. What happened to the boots in the Ordinance Corps two years ago is a marvelous flash in the pan if you suddenly discover you've got three warehouses full of wrong-sized boots. It's a joke for a day. But much more important, you've got to try to bring it to the relevant issues of the day. That does mean I hope that these Select Committees will fix upon the issues affecting their departments, quickly, and bring ministers before them, and ask penetrating questions. And I think then the media will find it quite interesting. Our own radio—we, as you know, broadcast sound—is going to bring out a weekly program on committee work. And it will be very interesting to see how interesting they make it. It could be very interesting.

But I agree with you—it's no good beavering away upstairs in committees, if the public can't see some sort of result. And as politicians it's up to us to make something of it.

Mr. Adjeteey: We have a new constitution, which makes provision for the appointment of standing committees, for the appointment of departmental committees something like what you are seeking to introduce. So, I suppose, constitutionally we have no problems. That's because the provision is already there for us to use. There is no provision made for the actual mechanics of the appointment of the standing committees, as to say whether the appointment should be made by a full House, or whether it should be done by a selection committee. But what we have done is appoint a selection committee for this purpose.

Now, in implementing the actual appointment, what I discovered was that the influence of the whips was brought to bear in the appointment of the selection committee. Now, what I want to find out is whether you have any suggestions on how the influence of the whips can be reduced to a minimum in the appointment of selection committees so the appointment of the departmental committees does not also carry the influence of the whips, or at least carries very little of it.

Mr. Baker: That's a very difficult thing to do, because the whips don't like any of their power being taken away from them, because that is how they can implement the will of the executives, and make sure that Mr. Hatfield survives. As I say, we have a selection committee, which has always been a rather minor committee in the past. It's never been a very important power base for anybody. And we've said that they should select the actual members of the select committees. They are going about it, and as lots of people want to get on these committees, they are lobbying the chairman, the members of that selection committee, and saying "We want to be on the committee X. Don't listen to the whip. And what's more, if we're not on it, we want to know why." And the second stage is that when the selection committee makes up the list for, let's say, the Home Affairs Committee, with 9 or 11 people to go on it, that has to be put before the House as a motion. It is debatable, it is amendable, and so if your name is not on it, you can put down an amendment, saying "Add Mr. Smith". And you then lobby your friends and say, "Come and vote for me: come on, and we'll take old Bill off". And that doesn't often happen in our House, let me say this at once—this is a little ideal—but at least there is a further check and balance. I believe, as I said earlier, that once this system of the selection committee selecting committees—and remember they select these departmental committees for the whole parliament for five years, and you can't just be dropped off like that, and added. It all has to be done with a resolution of the House, each member who comes off and goes on. So it's not just an administrative thing: "Strike that name off and add someone else". The House has to do it. And that's protection for the individual member. Next time round, I'm sure the selection committee will be much more distant from the whips. They will push them back slightly.

The Chairman: Mr. Claude Forget.

Mr. Forget: I have a question for Mr. Baker. In preparing your recommendations, did you give any considerations to a possible choice between two rather different systems for your committees. One procedure would be to have public—as public as possible—debates on a specific issue, with the attendant risk of a great deal of grandstanding between members of opposing parties and with the consequence that the expertise that such a committee might bring to bear on a specific issue might get lost in the partisan debate that would be encouraged by such a public sort of procedure. As an alternative, there could be a

committee that would work in private and whose ultimate objective would be to prepare a report, which would be submitted to the whole House. Then it would be debated on its political merit. The collective mind, as it were, of the committee could be brought to bear on the subject, with a minimum risk of it getting lost on the way in the debate between the political parties.

Mr. Baker: Yes. On the first system, of having open public debates and adversary politics, that is really done in our committees that deal with the bills. We call them standing committees, but as George Cunningham said yesterday, that's a complete misnomer—they last for three or four months. Those are little cameo replicas of the House of Commons. We sit divided. We have the opposition on this side and the government on that side. It's adversary politics. You get straight into the government digging in and the opposition digging in. And that is how our bills are dealt with when we mark up bills. The public can go to that; it is open. They very rarely do. Very little of that gets publicized. Sometimes when you have a good row, they do.

The select committees that I've been talking about are a move away from adversary politics. For a start, we don't sit one side, the other side. We sit at big horseshoe tables. Anybody can sit where they want. They don't all have to sit with Labour on that side, Conservatives on that side and Liberals. They sit where they want. You don't have debates in that. They are inquiry committees. The witnesses sit at the end. You take evidence from them and you ask questions. You develop your argument cleverly by asking questions, of course, and you try to direct the flow of argument the way you want it to go.

But it is away from adversary politics. If you had a good committee here, you'd have had the chairman of Petro-Can before it today. I'd be very interested to know what he's going to do. I've been reading and hearing about it on television, and you had a vote on it last night. It would be interesting to have the chairman of Petro-Can and the board of Petro-Can giving public evidence today before a parliamentary committee, wouldn't it?

It may not be exactly what Mr. Clark wants, or what your Premier wants here, but it would certainly gather a bit of attention, I would have thought, here and there in the media. And that can be done in public. You can't ever expect party politicians to strip off their party affiliation. I'm a Conservative, George Cunningham is a Socialist. That's what makes our being. We have different attitudes. George said yesterday that when a Labour Minister appears before a group of Labour Members, they want to heave a brick at him. That's the instinctive Labour attitude to authority. When a Conservative minister appears before Conservative backbenchers, we sit in reverential awe, all slightly bemused that the leader of our party could have appointed such a nincompoop to such an important post.

I couldn't help recalling on these sorts of occasions the advice of an eighteenth century poet in our country, Dryden. He said that if you want to destroy a person's reputation, don't take a club and bludgeon him to the ground, take a short sharp sword and chop off his head quickly, but leave him standing.

The Chairman: Perhaps since no one is at the microphone at the moment, I might be permitted to make a comment and ask a question myself. About hearing witnesses, I can assure Mr. Baker that the president of Petro-Canada will be called, but because we are so new in the session our committees haven't yet begun. It will be a week or two before the committees are actually in operation. Unlike your system, our committees don't have the control over their own agendas, so they may have to have an order of the House. I think that by living off bills from estimates and special studies and so on you have given up far too much. You are going to have efficient bill committees, executive oriented bill committees, I think I might say, but you are going to get much poorer scrutiny than if you were using the same committees.

Now I don't deny the problems that you have raised about overloading of our committees; you are quite right in your observation. But from our point of view at least you've found the wrong solution. Many of us are convinced that with fewer and smaller committees and with more use of subcommittees we can accomplish all of these tasks through one kind of committee, with of course, staff as well. In this way we could also get a first-class analysis of bills by people who may not be experts in the subject matter, but at least are much more expert than they would be under any other system.

Mr. Baker: There is a school of thought in the UK which agrees with you.

The Chairman: Yes.

Mr. Baker: If you set up a select committee on housing, let us say, and they go through the estimates of the housing ministry and they have a special inquiry into public sector housing, mortgage companies and all the rest of it, so that they become great experts, those nine or 11 people; it would be right for them, goes the argument, to do the housing bill, because you are drawing upon the same pool of expertise. I can quite see that argument. It may well be that one day we might move along that line. There is a philosophical argument against it which was put very strongly by Enoch Powell in our committee—that the committee that looks after a bill, that examines a bill, is really a reflection of the House of Commons and since the House of Commons is essentially adversary politics and it is right, therefore, that the committee should be a forum for arguments and debate between the parties. A select committee is not meant to be an adversary committee, it is meant to be examining a subject and coming up with a conclusion. This is very, very different from the debating process.

Mr. Powell would argue that they are totally different functions, totally and utterly different functions. This may be considered a rather old-fashioned point of view, but he has something in his argument. He and people like him were reluctant to combine the two because he is more worried that if you combine the two you will take the adversary nature out of legislation and of marking up and amending a bill. He believes, and others like him believe, and I think George probably agrees, that the essential nature of British politics is its adversary nature, that you have a party in power and a party in opposition disagreeing fundamentally about certain major issues.

Mr. Cunningham: Could I just say there is also a consideration which certainly weighed very heavily with me. Although a lot of people in our House seem to think when we were going through this business that our bill committees, are not very satisfactory, some of us actually felt that they are committees at their best. Sitting around a table, sitting down in the informal atmosphere of a select committee system is too informal for the purposes of putting words on the statute book. It is better to have somebody having to propose precise text—of course one always should propose precise text, but having to do so that by making a formal statement for it, having that opposed, having other points of view expressed. The greater formality of this standing up system is desirable not because of its adversary nature, because I don't like that in standing committees, but just because of its greater formality for the purposes of putting words on the statute book when it would not be desirable or necessary for the purposes of drawing up a report to go on to the House.

The Chairman: We could carry that on almost indefinitely. Do you want to take a further comment, Peter? I hope that this is just a stage on the way to an even better reform.

Mr. Dobell: It is interesting that you are now going to try to have expenditure review handled in a non-partisan manner with the horseshoe seating. In our House, certainly, the examination of estimates has two quite different characteristics.

When a minister is present, it is the purest form of party politics. Almost never is it other than just opposition attacking and government members defending. When you move to examination of senior officials, which is, let's say, two-thirds of the time, it is usually the examination of specific problems that concern the constituency. Both of these however are highly political and they very rarely, in an extended way, go into an examination of the genuine problems.

I wonder how you hope to avoid the problems we have found.

Mr. Baker: I don't think we will avoid them because those problems are international. Clearly when ministers appear before committees and they are questioned in detail about major policy changes, there is bound to be a sharpening of the party political knives. But it will be done in a sort of cross-examination technique method, not in a debating method.

I think that has happened in our Expenditure Committee, for example. When officials come, on the whole constituency matters don't tend to rise. It is very rare in the UK that a member will ask the Permanent Secretary of the Transport Department why a particular road has not been built in his

constituency. That sort of thing is best done at question time on the floor of the House. But when the permanent secretaries and the senior civil servants come to a select committee in the House of Commons, they can then be probed on the very great details of the road program for example. They can be asked how much is really being allocated, how much is going to be spent and what is the whole policy behind that expenditure.

There is no easy answer to what you say. You cannot denude select committees of the essence of politics. What makes George a Socialist or makes me a Conservative is what makes us different. We will have different attitudes towards how public money should be spent or not spent. We would have different ideas upon the policy objectives of government in every area. These are bound to come out in whatever committee system you have.

The Chairman: We're most grateful to Mr. Baker for the exceptional analysis that he has brought to us. I think it will certainly be very useful for all of us that these developments are taking place in Britain, because we really do have to learn from one another. Rather than going through all the painful experiences ourselves, I think it is useful if we can look at what another country is doing and learn from their experiences. Mr. Baker has really been very helpful to us. Thank you so much.

The conference recessed at 4:23 p.m.

On resumption:

Mr. Holtby: The chairman for this session is Hon. John Brockelbank who is the Speaker of the Legislative Assembly of Saskatchewan. Speaker Brockelbank was first elected to the Assembly in 1964. He is a former minister of the Crown, holding the portfolio of the Minister of Government Services. He was elevated to the Chair in 1975 and has been Speaker in two Parliaments in Saskatchewan.

I call on Speaker Brockelbank to introduce our speaker for this next session.

The Chairman: Ladies and gentlemen, these seminars, as I understand them, are for the purpose of gathering information for parliamentarians and exchanging information, and in fact dislodging our biases. That is not always possible but at least we can review our biases. I have never been disappointed in the previous seminars that I have attended. I appreciate the fact that I have been here and had the opportunity to talk to people from Canadian provinces and from other countries and have benefited from that experience.

Our topic, financial committees of the United States Congress, promises to be an interesting one and it is a pleasure for me to introduce Dr. Walter Kravitz. I have had an opportunity of reading an article by Dr. Kravitz called "The U.S. Congressional Committee System", in *The Parliamentarian*. I stand in awe of some of the statistics that I see in it. Let me read one paragraph of the article.

Under the rules of both Houses, each committee has the near absolute right to have referred to it all introduced measures within its subject jurisdiction. Furthermore, each committee has the near absolute power to dispose of those measures as it pleases. Committees are seldom required to report any of the measures referred to them back to their parent bodies; they may, and for large numbers of bills do, refuse to act, and thereby kill those measures. To discharge a committee, i.e. wrest out of its grasp a measure it does not want to report, it extraordinarily difficult, attempts to do so are rare, and successful attempts are even rarer.

After reading the article I couldn't help but think that the United States politicians, the better ones, must be consummate politicians, having a firm grasp of how the system operates, where its strength and weaknesses are, and how to exploit them at all times.

It follows that if the United States politicians are consummate politicians, the people who analyze and probe them must be consummate specialists as well and we are looking forward to hearing Dr. Kravitz' remarks on his subject. Here is someone who can tell us everything we want to know about congressional committees but we have been afraid to ask up to this point. Dr. Walter Kravitz.

Dr. Kravitz: Thank you, Mr. Speaker, and thank you, ladies and gentlemen, for having me up here, and thank you, Messrs. Cunningham, Hatfield, and Baker for your illuminating remarks about the U.S. Congress. I sat and listened with a kind of horrid fascination, not necessarily because any of the remarks were particularly slanderous, although they came close, but, in fact, because so much of what they said is quite true. But true in a way that is subtly distorted, I think. I felt rather like I was looking into one of those huge mirrors that you see in amusement parks, concave mirrors, convex mirrors. It is you but in one you're fat and in the other you're lean. That's what happened to me here these last few days. Yesterday we only had 5,000 committee staff, today we have 40,000. It depends on which mirror you're looking at.

But I forgive you. It is not my understanding that the purpose of inviting me here was to ring a change on what Mr. Baker said. I haven't come here to praise Caesar. That should redound a little bit in your minds. But I can tell you I haven't come here to bury him either, but rather to try, if I can, to explain him and to explain why these peculiar things happen in the American political system and the Congress. I hope to explain some of the phenomena that most of you are aware of and to explain it in a way that will rationalize it, or at least give some context to explain why these things occur.

I am not here to justify them, although the explanation will go a long way in justifying them. This is a system, I firmly believe, that springs out of the roots of our experience. It's watered by the British experience. It's watered by thinkers in many countries. But it is uniquely adapted to our kind of conditions, to our kind of population, to our kind of economic situation to our kind of psychology if you will. I would hesitate to recommend that any other country adopt anything, or any feature, of our system, without very carefully considering the costs that we pay. And we pay costs. We have benefits, but we pay for everything.

This is a system which, in my view, reflects our needs, and which is constantly changing, by the way, as our needs change. Some people think it's not changing fast enough. Others think it's changing too fast. That must mean we're on the right track.

What I hope to do first is set a context in which to understand first the congressional committee system, and then the financial committees of the Congress. It seems to me that without that context, nothing makes terribly much sense. First let me speak very briefly about some fundamental differences that I see between the U.S. congressional and the parliamentary government systems. I see two principal ones. Imagine, if you will a government in which the chief executive is not elected by the Legislature; not chosen by the Legislature; not responsible to the Legislature. That's the President of the United States. He holds the executive power. What happens in the Congress of the United States has no bearing on his tenure in office. He is elected for a fixed four-year term, by the people, not by the Legislature. He is not removable by the Legislature, except under the most extraordinary circumstances, namely, by impeachment and conviction. That's only been tried twice in our history, and neither attempt has been successful.

In short, the President is pretty well isolated from any control by the legislative branch. He has no obligations to them of any great consequence. He sends messages. A vote of confidence, under these circumstances, has no meaning. If the Congress, the Legislature, votes no confidence in the President, so what? What happens? Does the government fall? Of course the government doesn't fall; he's in there for a fixed four-year term. It doesn't matter to the President in that sense. It matters to the President in a political sense what Congress does, in the way of dealing with his suggestions, before legislation. But in a technical sense, it doesn't matter what the Congress does to the President's program. They can defeat the whole of it, and sometimes they do. He's still in office for four years.

Politically, of course, there are consequences to this kind of thing. But you might be surprised at the kinds of consequences. For example, one would think that a President whose program is eviscerated by the Legislature would be in desperate political trouble. Sometimes he is, but sometimes he's not. Sometimes it raises his stock enormously, because then he can go out into the country and run against the Congress. That's a very frequently used tactic by Presidents. Congress is as good a whipping horse as any. Washington is an even better whipping horse, you understand.

Our present President whips both. And why not? This is a perfectly legitimate technique. The point I'm trying to make here is that, if a President wants to get his program enacted by the Legislature, he has to use all sorts of techniques to persuade them to do so. He's got to persuade them to do so, because he's not a

member. He's forbidden from being a member. All his cabinet officers, what you would call ministers and what we call secretaries, are forbidden from being members of the Legislature. The President doesn't even have the right to introduce a bill. If he wants a bill introduced on his behalf, he must ask a member of Congress to do it for him. Sometimes he can't find anybody to do it for him. Most of the time, they will. Either because they agree with him, or because they're a friend of his, or as a matter of courtesy. After all, he is the President.

But they don't have to. And it has happened that presidents have gone, bill in hand, looking for someone to introduce it on their behalf. What's the other side of the coin? The other side of the coin is that the members of the Legislature, the members of Congress, are also elected directly by the people, from either constituencies, in the case of the House, every two years; or from States, in the case of the Senate, every six years, although on a rolling basis; roughly one-third of the Senate comes up for election once every two years. But they also have fixed terms. And their is nothing the President can do to get them out of office. Even if he wanted to bring down the government, they still stay in their seats, for that fixed term of two years, or six years. Their fate is not determined by the President.

Thus it's entirely possible for the President to be of one party and for a majority of the Congress, the Legislature to be of another party. Not only is it possible: it happens quite frequently.

Last night you heard Herr Stobbe praise checks and balances. You know what checks and balances are when you take a look at this kind of a system. The Germans drew up their constitution in fear of Adolph Hitler. One of your Canadian colleagues said to me that the American Constitution was based on a terror of George III. We're still scared of George III. Our constitution provides that the executive power rests with the executive separately elected; that the legislative power rests with the Legislature separately elected. But their powers are not totally separated. They overlap. In fact, they conflict, and deliberately so. The whole point of this system is to divide power, and to hit power against power; to have one power check another; to prevent the centralization of governmental power; to prevent tyranny. This is the way in which the American governmental system attempts to do it. The consequence of this is that normally the President and the Legislature are at each other's throats, each trying to protect its own prerogatives, each trying to protect its own role in public policy decision-making, its own influence in making decisions.

That is the normal situation. It is abnormal when Congress and the President are cooperating. It usually happens one every four years, right after a President is elected, during those first few months that are usually referred to as his honeymoon. One could make all sorts of obscene remarks about that, but I won't. How long will the honeymoon last? A month, two months, three months, five months, six months? It all depends on the political situation, on the party situation, on the skill of the President in his understanding of what kind of institution Congress is and how to manipulate it. But one thing we're certain of: it will come to an end. Perhaps sooner, perhaps later. Usually sooner rather than later, but it will come to an end. For every President, the day will come when the Congress will be at his throat, and he at theirs. That's the normal situation for our Congress.

This means, furthermore, that the President is looked at by the Congress as an outsider: that man down at the other end of Pennsylvania Avenue. Everything he says, and everything that his people say—his cabinet ministers, his civil servants, must be tested for bias and prejudice, because he's got an axe to grind over there. And his axe may not be mine. In fact, the odds are it will not be.

What I'm trying to say is that in the parliamentary system, you have a tendency to centralize government decision-making in the cabinet. You've taken the executive power, and you've taken control over the Legislature, in most parliamentary systems that I know about, and you have delivered it into the hands of what is essentially a leadership committee of the parliament. You have said to this leadership committee, "Govern. We have given you the tools to govern, both the executive power to govern, and control of the Legislature, that you need to govern". That's why, in parliamentary countries, when a parliamentarian says, "the government", he means the cabinet, doesn't he? But that is not what an American understands by the "government". When an American says "the government", he means the whole governmental apparatus. And that's quite accurate, from his point of view, because the whole government apparatus has a role in decision making: the Congress, the President, the judiciary, the bureaucracy, which

is not mentioned in the Constitution but is nevertheless involved in the game, and a good many other actors as well.

So, when an American says "the government", he doesn't mean a cabinet. A cabinet is a tangential affair in the American system. The cabinet is a presidential convenience in the American system. The cabinet is crucial to the parliamentary system. Our words don't mean the same thing. I hope you keep that in mind—when you say government, you don't mean the same thing we mean when we say government. And when we say "political party", we don't mean the same thing you say you mean when you say "political party". You may think it's the same thing, but it's not. You assume—and I've listened with fascination to the discussions you've been having the last two days about the "proper degree of loyalty" that members should have to their parties. How far can one go in being independent? Very close? Nothing at all? A little bit? From the American point of view, the argument is fascinating, but trivial. For you, obviously, it's not trivial. I appreciate that it's not trivial, and it's a terribly important thing for you, because you believe that a party should be, must be, relatively ideologically cohesive. We believe no such thing. That's not what a party means to us. You believe that a party should be centralized and disciplined, and follow its leadership. We believe no such thing.

We believe all sorts of things that are nonsense. What really happens is that our political parties are not ideologically cohesive. Our Democratic Party, for example. I once heard the current Speaker of the House—who you must understand is not merely a neutral parliamentary presider over the House—he is the political leader of the majority in the House of Representatives. I once heard the current Speaker of the House, Mr. O'Neill, in a discussion with some of his fellow Democrats. They were terribly impatient about what was happening in the House, and they were protesting. Why didn't he persuade and coerce members of the Democratic Party to support Democratic policies? After all, aren't we all members of the Democratic Party? To which the Speaker replied: "Which Democratic Party are you talking about?" He said, "Right here in the House I see five Democratic Parties." There are the progressives, a relatively small group. If you translate from American into English, "progressive" means the radical left. There are the liberals, a very large group; there are the moderates, a substantial group; there are conservatives, somewhat fewer but, nevertheless, a significant number, and then there are the very conservatives. I am using his terms. Obviously, one could use other kinds of terms. This is an enormous spectrum of ideological conviction but they are all Democrats.

How do they get to be Democrats? Do they sign a manifesto and say: "I believe in these policies?" No. What they do is they enter a primary and if they can get enough friends to vote for them in the Democratic primary, they are a Democrat. Not only that, they are the Democratic nominee. This is called the open primary. The open primary means that anybody can come in. Understand that. The parliamentary leaders can't stop them from coming in unless they marshall a good many votes to keep them out.

Under these circumstances, anyone can be a Democrat and anyone can be a Republican. This is not to say that there are no ideological differences between the Democratic and Republican parties. There are, but those differences are shadings of subtlety compared to the differences between your political parties, especially in Great Britain.

On the whole, the Republican Party tends to lean more towards the conservative side, but there are many Republicans who are far more liberal than some Democrats. On the whole, the Democratic Party tends to lean towards the liberal side, but there are a good many conservative Democrats who are far more conservative than some Republicans. These are not ideological parties; these are empty vessels that fill up with any kind of rainwater that comes along. This is very convenient, you must understand.

When you join a party you are stuck. You are stuck with their policy. You are stuck with the ideological point of view. When that ideological point of view peters out, and eventually it will, what happens to your party? Well, you die or you start to die and some new party comes along.

That is the great strength of the two-party system and how we maintain two parties so consistently in the American system with some historical exceptions; as I say, they are empty vessels. Anything that comes along, they will pick up. If a third party comes along to challenge them and if that third party begins to pick up a lot of votes, that means that people are really interested in what this party wants to do. What

happens to that third party? Very soon it is pre-empted by one of the two major parties or both. Its adherents shift over to the major party, and goodbye third party.

This is how the Democratic Party in one year can be full-blown for huge deficits in the budget, as it was five or six years ago, and today can be the leading proponent for a balanced budget, which is what the Republican position was five years ago. They've changed somewhat since then. This is perfectly reasonable. Our parties respond to an enormously heterogeneous kind of country with an enormous population, with enormously different interests, geographic, ethnic and economic, and try to gather them all in under one huge cape.

I was telling you about Speaker O'Neill and his comments. He went on to say, "I've got five Democratic parties in the House of Representatives and out of those five Democratic parties I'm supposed to find a majority. Nominally, I've got two-thirds of the seats of the House of Representatives. I should win every vote, shouldn't I? But I don't. Most votes I win by a very thin majority because I have to find that majority amongst those five groups because no single one of them is a majority of the House. I've got to build a coalition amongst them and that coalition shifts depending upon the issue. Every time a new issue comes along, I have to rework the kind of coalition I need in order to find that magic number, the number I need to pass it through the House of Representatives".

Actually, it is a good deal more complicated than I have explained it. I'm over-simplifying enormously, because it would take me a considerable amount of time to explain it in detail. But essentially this is the process.

Under the circumstances, what kind of leadership can one expect from Mr. O'Neill when he tries to bludgeon, if you will, his members into going along with the party line—whose ever party line we are talking about. I'm not sure what the party line is from day to day, depending on what part of the Democratic party in which you are involved.

In the end, I suppose, the final club that leadership has, certainly in parliamentary systems, is that if you don't go along you won't be re-elected. "We will see to it that you are not re-elected." You can't be elected—I think Mr. Baker said he didn't have a hope of being re-elected by himself, or for himself, no matter how popular he is and we know that he is very popular in his district. I'll vote for you any time, Mr. Baker. But if his party took away from him its allegiance and its support of him, he wouldn't be elected.

There is no such thing in the United States. When a member runs for re-election, he knows very well that his party's leadership has nothing to do with his re-election. In fact, if his party's leadership comes around they may hurt him, because in his part of the country, they may not like the kind of Democratic party that his leadership represents. Because of the open primary, because of the particular circumstances when a member is elected, he gets elected for the most part out of his own resources, his own friends and his own supporters. He raises his own money for the most part. He may get contributions from other places, but most of the time he raises his own money. It is his own organization that he puts together, it is not the party's organization normally.

There is a myth that there are political machines in the United States. That was once true. It hasn't been true for at least the last 10 years, and in some places more than that. The political machines have disappeared; what people now call political machines, are not really political machines. They are ad hoc collections of people who get together every couple of years to see if they can elect somebody. This is not the kind of political machine we once had.

The grass roots political structure of the national political party is practically non-existent. We really don't have national political parties when you get right down to it. We have a name and every four years they get together, because they have to get together, because the constitution requires that a president be nominated and elected, or at least elected. So some 4,000 or 5,000 little Democratic parties get together every four years, to see if they can get together on a nominee. And what's more, to see if they can get together on a platform. What is the nature of this platform? Is it a promise like manifesto? No, it is a treaty of peace amongst all the factions. "What can we best live with?" Is the presidential nominee bound to support it? No, he is not. He can if he wants to, and he doesn't have to if he doesn't want to.

In short, we don't have disciplined political parties. When members arrive in Congress they are entrepreneurs and they act like entrepreneurs. If the leadership wants to try to coerce them, it knows it is not going to be successful.

I think it was Mr. Cunningham who referred to the whips as feather dusters: well, if your whips are feather dusters, ours are soap bubbles. They don't whip, they don't even dust. They plead, they beg and quite often that doesn't help either. "Why, what are you going to do to me? How are you going to punish me if I jump off the party line?" The answer is that there are practically no weapons available for leadership. Certainly that most crucial weapon, the threat of non-election, is almost totally lacking.

What does all of this have to do with committees? Everything. The fundamental character of the committee system of the United States Congress is deliberately fashioned to meet these kinds of circumstances. Because of the constant battle between the President and the Legislature, committees are swung into line as major cannons in the battle. Committees give the Congress the kind of expertise it must have. I've heard discussion here about the usefulness of expertise, and how nice it would be. For the American Congress there is no option. This is an absolute necessity. The vast resources available to the executive branch, must be countered in some way, if the Congress is going to maintain at least a foot in the door of influence on public policy decision making.

Part of this expertise, a good deal of it, comes from the committees and from long tenure on the committees. Now, it is true, as some have suggested at previous sessions, that some members stay on the committee for 20 or 30 years and never become expert. You have met stupid members of your institutions, I am sure, as I have met stupid members in mine. But the ordinary, average Member of Congress is a relatively intelligent man or woman. If they stay on a committee long enough they will learn a hell of a lot, and they do. They do become quite expert. But, of course, they have to cover a lot of fields as politicians, and therefore they must have staff.

Staff is a necessity for them. It is not a question of shall we, or shan't we? It is a question of how much is enough. Now that we can quarrel about. We have heard figures of 5,000 committee staff, 40,000 committee staff, I expect tomorrow we will hear 80,000 committee staff. I think the number is some place really about 6,000, which is a big number, and that is not all that is available to committees. There are the congressional support agencies, the independent agencies, one of which is my own, the Congressional Research Service of the Library of Congress. There is also the General Accounting Office and the Congressional Budget Office. All of these are pooled staff support agencies available to committees and to members of Congress to provide all different kinds of expertise. Members feel that without it, their chances of maintaining at least parity to the executive branch starts sliding away.

The committees are the cutting edge in this attempt to match the expertise of the executive branch. We know, and the members know, that you never get to an absolute parity, but you can stay close.

Furthermore, it's the committees which help the Congress examine the executive's proposals and modify them and change them. I am entranced by the parliamentary system, as I understand it, in which the government introduces its budget or introduces its program, and swoosh, out it comes as pure as the day it came in, for the most part, on the major proposals of the government I would think that out of every 100 measures that the President suggests to the Congress, perhaps one gets through the House, if it gets through at all, unchanged. Who makes most of the changes? Who makes most of the modifications? The committees. Who thinks up new congressional initiatives, the counter proposals from the executive branch? The committees, to a very large degree.

What is the chief weapon, as the British have discovered, for maintaining control—not so much control but watchfulness—over what the executive branch is doing? The committees. We call it oversight. Oversight by congressional committees is not carried on these days in a terribly efficient way, but nevertheless a good deal of it goes on. Most members understand that it is a critical function for the Congress because the whole point of this game is to see to it that the Executive Branch is carrying out the congressional intent of laws; not the executive intent of laws, but the congressional intent of laws.

What about the party system and its effect on the committee system? We have a decentralized party system, and the committee system perfectly reflects that: it's a decentralized committee system. The total scope of subject matter is divided up in discrete pieces. Each piece is assigned to a committee. When I say assigned to a committee I mean—as you read in that article—lock, stock and barrel, it belongs to that committee. Every bill introduced on that subject must be referred to that committee.

It may not come up on the floor for consideration unless that committee reports it, and that committee does not have to report it if it doesn't want to. That's the basis of the power of these committees.

Now how does this fall in line with the purposes and needs of individual members? Perfectly, because it gives everybody—remember those entrepreneurs—a piece of some action. Everybody sits on a committee, at least one in the House. Many members sit on two in the Senate. Many senators sit on as many as four or six, and this doesn't count the sub-committee structures. On every committee on which you sit, you share in the power and the influence of that committee, which decides what the House will consider, what the Senate will consider, what controls the agenda of both Houses? The committee system. It decides the form in which the House will consider a matter, whether it be the form the President recommended, or some other form that the committee wants it to consider. This is the power of the committees.

Everybody shares in that. I don't mean to say that all members are equal. Obviously there are some members who are more equal than others. But with the recent shift of influence and authority from the full committee level to the sub-committee level—and this has been occurring for the last decade—we have something in the neighbourhood of, in the House of Representatives, 150 sub-committees. Now that means that a lot of people can get in on the action. A lot of people have at least part of the policy scope. It belongs to them because everyone else on other committees will defer to them, with the expectation that they will defer to you, on your committee. It's a mutual arrangement that's involved here. A mutual exchange of authority. But everyone has a piece of the action.

So the committee system meets the individual member's needs marvellously. He doesn't have to worry about his party. What he has to worry about is whether his people back home will re-elect him? His people back home will re-elect him, he thinks, if he is able to satisfy their desires. How better can he satisfy those desires than to get onto a committee which has jurisdiction over subject matter which has to do with the interests of his constituency. Invariably, he'll get that kind of a committee assignment. The leadership wants him to be re-elected. Why not? They certainly don't want to see him defeated. So they'll put him on the right committee. Here is where the seniority system comes swinging into effect.

Unfortunately, there is a myth that the seniority system says that if you stay on a committee long enough you'll eventually become the chairman because you'll have served on it longer than anyone else. That's true. Or at least it used to be true; it's somewhat modified these days. But that's not really the heart of the seniority system. The heart of the seniority system is the unwritten rule that says once you're assigned to a committee you may not be removed without your consent.

Now, before the party leadership assigns you to a committee, they've got some leverage with you. You may want a particular committee but once they assign you, what you owe to them is for a past favour, not for the future. They can't touch you after that. If you want to stay on that committee, you stay on it.

Naturally, in the long run this kind of thing is going to result in knobbled committees, a lovely term I have discovered since I have been here. Members who come from farm districts will want to get on the Agricultural Committee, because their constituents are interested in agricultural policy. Therefore, eventually the Agricultural Committee gets to be pretty well packed with members from agricultural districts. Also, members from inner cities will want to get on Labour and Public Welfare, because public welfare is a tremendous thing for their kinds of constituencies. This is so in almost infinite number.

There are committees, sometimes referred to as the "power committees", that don't focus on narrow subjects. I'll get to those in a moment. The younger member is inclined to go for those kinds of committees that will get him re-elected. So he's on it, and he has a piece of the action, because everything which is introduced belongs to his committee.

With this kind of background and understanding this kind of context, what would you expect to happen when you deal with the financial committees of the Congress? You should be able to tell me, pretty much in advance, in general terms, what we'll find. Every Legislature in the parliamentary system and certainly in the congressional system puts the power of the purse in the hands of the Legislature. It's an enormous power. It's a very, if you'll forgive the pun, treasured power. No money may be expended from the treasury except by appropriation by law, and taxes may not be levied except by appropriation by law, and Congress makes the laws.

But, in addition, there is a long-term competition within Congress as to who is going to exercise this power. The solution to the problem of competition is different in different times. The way power is distributed in Congress is different in different times. Today, jurisdiction over all the annual appropriation bills belongs to two committees—the appropriations committee of the House and the appropriations committee of the Senate. The House rules prohibit any other committee from reporting a bill that contains appropriations, bills that actually authorize the spending of money all belonging to the appropriations committee.

When the appropriations committee gets down to the actual business of deciding, it breaks itself up into 14 sub-committees. Each of these sub-committees suddenly takes on an independent aura. They become autonomous. Each of them takes one of the major appropriation bills of each year and that's its property. It marks it up the way it wants to, and reduces whatever it wants.

They not only examine the estimates, they also mark up the budget bill—that is, the appropriations bill—for each of the departments under their respective jurisdictions. When the sub-committee reports to the full committee it's a pro forma vote. A full committee almost invariably accepts the recommendations of the sub-committee. That, however, is not the whole ball game.

The committees of subject jurisdictions, sometimes referred to as the authorizing or legislative committees, also play a role. In the first place, under the rules of both Houses, appropriation bills are not in order for consideration unless they appropriate for programs that are authorized in law. This is sometimes referred to as the authorization of appropriations process. An appropriation bill may not come up until a law has been enacted authorizing the existence of the program that's about to be appropriated for. Those authorization bills are the property of the authorizing subject committees. This is their entrance into the money game, because in these authorizing bills they frequently say, "and I hereby authorize to be appropriated such sum of money."

The authorizing committees also get into the game because of techniques that have been developed over the years for evading the annual appropriation process required by the Constitution. This has been done by inventing such things as revolving trust funds. You set up a program in which money is paid in by taxes, and is paid out according to formulas, and doesn't have to go through an annual appropriation.

Numerous other techniques have been developed and those measures are usually developed by the committees of authorization.

Until 1974, these two classes of committees, plus one more, the tax committee, known as the Ways and Means Committee in the House, and the Finance Committee in the Senate, control the whole money situation in this fashion. Ways and Means controlled all taxes—and by the way, because it controlled all tax measures it also controlled all programs in which taxes were involved. In this fashion, Ways and Means gained jurisdiction, that is, control, over social security. As a subject this belongs to another committee, but because it is financed through a tax, it belongs to the jurisdiction of Ways and Means. Medicare, Unemployment Insurance and a great many other programs are financed by the tax programs. Until 1974, the President would send over his budget. It would be broken down into little pieces, distributed among all the committees, taxes going to the tax committee, appropriations going to the appropriations committee, authorization bills going to the authorizing committees, and never again were the pieces put all together. The pieces would be enacted separately.

During the Nixon Administration this became intolerable for a good many reasons, and in 1974, the Congress passed the Congressional Budget and Impoundment Control Act, which imposed on top of the

system a new budget process. The guardians of the budget process are the budget committees, one in each House, and it is their function to deal with the budget as a whole, to report an internal resolution, an internal measure to deal with the macro-numbers of the budget, and to provide Congress with a procedure by which it can deal with the budget as a whole and its impact on the economy. This is the present state of the financial committees in the Congress.

The budget process has been in effect since 1975. It's relatively new, relatively young. There are varying opinions on its success. To a degree, it has given Congress an opportunity to deal with the budget as a whole, something it has not been able to do in the past. On the other hand, it has also taught many members of Congress all the little games that can be played with the budget that used to be played only by the Executive Branch. But now they are being played by the Congress as well.

What kinds of games do I have in mind? As you know, you cannot build a budget without estimates, and the estimating game is magnificently filled with all sorts of opportunities. One has to estimate, for example, what the unemployment rate is going to be next year. Does anybody really know what the unemployment rate is going to be like next year? Of course not; but you have to estimate. If you're going to estimate, you can have a very optimistic estimate, or you can have a very pessimistic estimate, or you can have an estimate in the middle.

What Presidents have usually done, through their staffs, is to make all sorts of optimistic estimates. Why not? It's as logical and as reasonable as anything else. When I was with the budget committee, during its first year of operation, one of the items included in the President's budget was what was called the negative expenditure for about \$8 billion. That is, they were going to knock off \$8 billion on the bookkeeping side for expenditures. This \$8 billion was supposed to come from receipts from the sale of offshore oil leases, which were going to be auctioned off. At the time, the whole matter was in the courts, and we weren't even sure there would be any auction that year. What's more, no one knew what the bids were going to be, so naturally, my people called up the President's people and said, "Why \$8 billion?". The reply was, "Why not?" "How about \$4 billion?" "That sounds good to me." If you say \$8 billion, you have reduced the deficit—and that gets the big headline when the budget document appears—by \$8 billion. But if you knock it down to what it actually became, \$1.5 billion—by the time all the books were counted up it was only \$1.5 billion—by the time all the books were counted up it was only \$1.5 billion—there went \$7 billion of deficit that no one ever heard of later on because when they total up the books at the end, that doesn't get the headline. It is only when the budget is submitted that it gets the headline.

Members of Congress have learned these kinds of games, learned to detect them and invented a few new ones, naturally. It has been a fascinating process. Why don't I stop here and give you an opportunity to ask me some questions?

The Chairman: Dr. Kravitz has given us an interesting cost-benefit analysis and it would be academic for us to discuss the costs and the benefits of the system. I suppose that will be decided by the United States citizens over a period of time.

Is there somebody who wishes to question or comment?

Mr. Comtois: I appreciated very much the comments of our guest and I think that I have learned more about the US Congress in an hour than in 10 years.

Dr. Kravitz: Just imagine if I had two hours.

Mr. Comtois: I would like to know if every member of the House of Representatives or of the Congress are members of committees or subcommittees.

Dr. Kravitz: Every member sits on at least one committee and many members sit on two in the House. In the Senate, some members sit on as many as four, five or six committees, not counting subcommittees.

Mr. Comtois: Do you have any idea of how many committees and subcommittees there are?

Dr. Kravitz: There are about 22 or 23 in the House and about 17 or 18 in the Senate, plus an assortment of joint committees and a few select committees that crop up from time to time, plus a semantic

abomination that has just been developed in the last few years called a permanent select committee. There are several permanent select committees. All in all, there are about 50 full committees.

Mr. Laundry: May I ask a few quick snap questions? I would like to know if the committees delegate their full powers to the subcommittees.

Dr. Kravitz: No. A subcommittee may not report back to the House. Only full committees may report back to the House. As a matter of practice over the last decade, more and more committees have been delegating to their subcommittees greater and greater autonomy and independence. It seems to be more and more the practice on a good many committees for full committees to give virtually pro forma approval to the recommendations of their subcommittees. This is not true on every committee, but this is the trend. But as a technical matter, subcommittees may not report to their respective Houses; only full committees may report.

Mr. Laundry: You mentioned that there are something like 14 appropriation bills which are parcelled out among the subcommittees of the appropriations committee.

Dr. Kravitz: Yes.

Mr. Laundry: This would apply to both Houses, I take it?

Dr. Kravitz: Yes.

Mr. Laundry: You mentioned also that the President cannot introduce a bill, he has no such right, he has to find somebody to introduce his legislation for him. Would these appropriation bills be presidential bills or would they be initiated by Congress?

Dr. Kravitz: No, they are initiated by Congress. As a matter of ordinary practice in the House of Representatives, committees do not have the right to originate bills, only members do; but there are certain committees which are given that right and amongst those committees is the appropriations committee. The appropriations committee may originate its own appropriation bills; they do not have to be introduced. In virtually all other cases bills must be introduced and after introduction are referred to committees. Committees may not originate their own bills. They can only report back to bills that were referred to them with recommendations for amendment.

On the Senate side there is a different situation. All Senate committees may originate bills.

Mr. Laundry: In estimating the requirements of government departments—.

Dr. Kravitz: They receive estimates from the President, who submits the annual budget estimates for the whole U.S. government.

Mr. Laundry: And this of course would influence the contents of the appropriation?

Dr. Kravitz: Certainly. There was an internal debate in the budget committees before the budget process began, on whether or not the budget committees should base their analyses on the President's figure or come up with separate figures of their own. There was much to be said on both sides and a good deal to be said on the side of those who argue that they ought not to be influenced by presidential estimates at all. As a practical matter, it couldn't work that way. They in fact use the presidential estimates as a basis but they have no compunction about changing those estimates.

Mr. Laundry: Under our parliamentary system we have what is known variously as a consolidated fund or a consolidated revenue fund into which all revenue flows and from which all expenditures emerge, but from what you were saying I have the impression that specific taxes are allocated to specific programs in your country.

Dr. Kravitz: That's true.

Mr. Laundry: Must the programs be financed specifically out of those taxes?

Dr. Kravitz: There is, first, a general fund in the treasury out of which the general appropriations are drawn; but, in addition there are some specific programs for which money is earmarked. The money that is earmarked comes in through taxes, goes into a trust fund and gets paid out of that trust fund. For example, the social security system is funded by this kind of system. Taxes are deducted from individual pay cheques in percentages. That money is deposited into this trust fund. Then when individuals become eligible under the criteria of the law, the benefits are paid out automatically without any appropriation action by the Congress. This is a problem that the budget people in the Congress have been much concerned with. It's usually referred to as "uncontrollable expenditures". How can one get a grip on the budget when, by current estimate, something in the neighbourhood of 75 per cent of all dollars flowing out of the government are considered to be virtually uncontrollable because they fall under some benefit or grant program?

The Congress, in the Budget Act, partially dealt with this by forbidding any new kinds of programs which used this approach, but the old programs continue, and are going up by immense leaps.

Mr. Laundry: Are the funds allocated to those programs fixed? Can you draw on any other revenues?

Dr. Kravitz: Not unless the Congress passes an additional law permitting it. As a matter of fact, the actuaries claim that eventually the social security system is going to run out of money at the rate that it's going. Eventually Congress may have to face up to having to appropriate funds to replenish the trust fund from general appropriations. They've been trying to stay away from that.

Mr. Laundry: I know that committees have their own staffs and that the majority has the right to appoint a certain number; the minority has the right to appoint a certain number; and that in addition CRS provides very extensive services to committees and plays a very great part in the investigation of committees and I presume in the drafting of the final reports. I believe that your specialists are frequently appointed to direct the staff of committees.

One thing that interests me as the director of a research operation at Ottawa: How do you divide responsibility? How does the CRS staff work with the permanent committee staff?

Dr. Kravitz: The answer to that is, I think, Public Administration Law No. 83. "It all depends". It all depends on the circumstances, on the chairman of the committee, on the members of the committee; every committee and every committee situation is a different mix. What has happened here is that Congress has used virtually every approach to staff that you can think of, and picks and chooses what it wants to use for any particular situation: committee staff, personal staff, pool staff in the various support agencies, and each of the support agencies has a different kind of staff to provide. In addition they hire outside consultants quite frequently. Each committee decides what kind of mix it wants to use for any particular purpose.

Hon. H. Graham: You have said that subcommittees do not have the authority to bring anything directly onto the floor of the House.

Dr. Kravitz: That is correct.

Hon. H. Graham: How do you deal with a minority report of a subcommittee or even a minority report of a committee?

Dr. Kravitz: Under the rules of both Houses, if the minority of a committee, or any individual member of a committee, whether he is of the minority party or the majority party, wishes to submit either a minority report or individual views, the committee is required to place those views in its report if they are submitted within a set period of time. Quite frequently reports are issued that include minority reports as well as the majority report.

Mr. Reid: I am the Chairman of the Ontario Public Accounts Committee.

What is the accounting situation in the U.S. Congressional system? You're spending these billions of dollars, you have told us about the budgets and estimates procedure. Is there a specific audit committee which operates with the assistance of the GAO to in fact do a post-audit function after the funds have been spent to look into the matters of what we now call economy, efficiency, and so on?

Dr. Kravitz: No specific committee does so. The theory seems to be that the General Accounting Office will do the audits, and issue reports, and make recommendations to the agencies concerning its audits. Further, the theory is that the committees of jurisdiction have the responsibility for looking into the past operation of all of the agencies and programs under their jurisdiction. Auditing is part of the oversight function. The committees will use the General Accounting Office to do the technical auditing of the books and frequently to do investigative work to find out whether in fact the money has been spent effectively; what the cost benefit analysis is, if any; if it is possible to say whether there is a cost benefit analysis; and also to evaluate whether the operations of the agency are actually fulfilling the intent of Congress when it passed the law.

This is the theory, but there are all sorts of holes in this theory, as you might imagine. In the first place, who knows what the intent of Congress was when it passed the law and is it really relevant any more? The intent may have changed within the last 10 years. Who is going to be the final voice on what the intent was or what the intent is now? Once more my favourite public administration law: It all depends. In theory the auditing function, in a policy sense, not in a technical sense, is supposed to be a function of the standing committee's jurisdiction.

Dr. Foster: The House of Commons standing committees study the estimates; they do the detailed study on legislation; and they do investigate studies on matters referred to them by Parliament itself. Do the various committees in the United States Congress perform all three functions? As I understand it, to do investigations they don't require any authority from the House; they can go off in their own direction, I'd like you to comment on that.

I've noted the committee that Senator Kennedy chairs; I believe on medicare. He seems to be the only one there, as if he's a committee of one. Is there any sort of standard structure as to how many serve on the committees? Do they have to get their authority for spending or travelling from Congress itself, or do they have an open-ended ticket?

Dr. Kravitz: Your first question was what is encompassed within the functions of the standing committees' jurisdiction. The examination of bills and the reporting of bills referred to them, investigations of the executive agencies and programs under their jurisdiction, and studies and investigations and hearings of virtually anything else that falls within their jurisdiction, and sometimes matters that creep a little bit out of their jurisdiction as well.

For this purpose they are given funds in two fashions. Under permanent law, every committee receives a certain amount of money for investigation included automatically in the appropriation bill for the legislative branch. In addition, each committee must, if it wants to do more investigations, beyond the sum that it receives normally—and every committee wants to do more—will submit a request for additional funds. These requests are referred to the administration committees of each House, which examine them, report them out and each House then adopts a resolution which gives to each committee additional funds.

In fact, the amounts of money involved in these so-called expenditure resolutions is far larger than the permanently authorized amount of money that most committees have. How much does this money amount to in total? Again, it varies from committee to committee, but I've seen figures so as high as \$10 million and \$15 million a year. That accounts for staff and all costs of investigations. In the course of a year they may come back and ask for more because they ran out of money.

On the third question. The sizes of committees vary. There was a time in the history of Congress when they were relatively uniform. They no longer are. Naturally the sizes of committees in the Senate are much smaller than they are in the House. There are 435 House members; there are only 100 senators. They have to cover essentially the same policy scopes, and so you would expect the natural mathematical consequences of that.

There's another consequence, and that is that senators have to sit on more committees than House members in order to get full coverage. The average committee in the Senate these days is running about 17 to 20. The average committee in the House these days is running anywhere from about 25 to 40.

Appropriations committees invariably are the largest committees in each House—in the House of Representatives about 50 members, and in the Senate about 25 or 30. The smallest committees are usually the administration committees.

In the House, a certain number of committees under caucus rules have been designated as exclusive committees. This means that if you serve on one of those committees you may not serve on any other committee. It's considered to be one of the great power committees of the House. Its business is supposed to be so extensive that you wouldn't have time to sit on other committees anyway. The Appropriations committee is one of those. The Ways and Means Committee is another one of those. The Rules Committee, which has a unique role in the House of Representatives—it virtually controls the agenda of the House and determines what the House is going to take up and what it may not take up—is also considered to be an exclusive committee. All other committees are not exclusive committees. You may sit on any two of the others. Therefore for the 50 members of the Appropriations Committee, that's their committee.

In the Senate, of course, they can't afford to do that although they have an analogous system which tries to accomplish it.

The sizes of subcommittees, again, vary from committee to committee. Under the Rules of the House, every committee or virtually every committee must have a minimum of four subcommittees. They may have more than that but they must have a minimum. This is a recently adopted rule and this is part of the trend over the past decade that I mentioned a little earlier, the shift of authority from the full committees to the subcommittees. There was a time when the full committee level was the significant level in Congress. It was at this level that the full committee chairman exercised what has become almost mythological kinds of powers. The further it recedes into the past, the greater the powers seem to be.

It is true that the committee chairmen in the 1940s, in the 1950s, in the early 1960s were tremendously influential. There were some examples of rather brazen fiefs and the chairmen ran the committees like feudal societies. There is some exaggeration in this but there is also a good deal of truth in it. It is in the nature of an institution like the United States Congress that this kind of situation cannot last for very long. It is intolerable because everybody has to get into the act.

Well eventually the reaction set in and it set in from a number of different directions. The major approach has been to force the committees to form subcommittees and to take the power of appointment to subcommittees away from the full committee chairman and to put it into the hands of the full committee itself. Therefore you find a bargaining process amongst the members of the committee; they distribute the subcommittees amongst themselves, in part using the seniority system. The full committee chairmen are less and less in control of this process.

One of my favorite committees of the House, the Judiciary Committee, had six subcommittees. The first subcommittee was called subcommittee number one and the second subcommittee was called subcommittee number two, and so forth. You may very well ask, "well how did one know what the jurisdiction of each subcommittee was?" That is a very good question. The chairman knew and he wasn't telling anybody. You can't do that any more.

Briefly you see Senator Kennedy sitting there alone because all the other senators have other committee meetings or other kinds of activities to go to; or they don't want to be seen in the same picture with Senator Kennedy; or Senator Kennedy has so arranged it that they don't have time to get there while the pictures are being taken. Conflicting schedules raise very great difficulties.

Dr. Foster: How many are actually on his subcommittee?

Dr. Kravitz: I don't know what the exact number is but I would imagine it is probably 8 or 10.

Mr. Dobell: I think Walter should elaborate on a point which will be of interest to Canadians. The questioning order is completely different. It begins with the chairman who stays on a long as he wants and then it usually goes down and it produces a much more effective form of questioning than our system in the federal parliament.

Dr. Kravitz: In the House of Representatives in recent years, Peter, this has been changed. The rule which has been adopted is referred to loosely as the "five minute rule" and it just says that in the questioning period at hearings, each member shall be limited to five minutes in which the question to witness—on the first round, and no member may use more than five minutes until every member has had a opportunity to use five minutes to ask a question. After that it is wide open.

The Senate does not use this rule. What kind of a question and what kind of an answer can you get in five minutes? If you have the kind of witness who is skilled in dealing with congressional committees, you could ask him a question that consists of five words and who uses up the whole five minutes so that nobody else gets a shot, he can't get a second shot at him until the second time around.

Mr. Campbell: I noticed in the presentation this afternoon that there was no reference to the use of veto power and I wonder if you might just comment briefly on that.

Dr. Kravitz: Yes, the President under the constitution has the right to veto, that is to refuse to sign a bill that has been enacted by the Congress. If the President vetoes a measure and sends it back to the Congress with his refusal to sign, it may still be enacted into law if two-thirds of each House vote for its enactment. This is part of that overlapping I was talking about in which the President plays a role through his veto in the legislative process, but the Congress may counter it with a more than majority vote and overcome it.

Mrs. E. Kusi-Iadoo: I am Elizabeth Kusi-Iadoo from Ghana. Mr. Chairman, I am a member of the House committee which seeks the welfare of the parliamentarian. I would like you to discuss briefly what happens in the US with such a committee.

Dr. Kravitz: I welcome the questions from the members from Ghana because their system is so remarkably similar to the one that we have in the United States.

Basically this is within the jurisdiction of the administration committees of the two Houses. They have jurisdiction over such matters as how much staff each member has. At present, members of the House of Representatives are entitled to 21 personal staff. In the Senate the formula goes according to population. The larger the population the more money the Senator gets and within that sum of money he may hire as many people as he can, depending on how he wants to divide his salary.

The administration committees also control jurisdiction over such things as how many offices a member may maintain in his constituency district; how much money he shall have for paper and stationery; how much he may have for office equipment; how much he may have for computer services; how much he may spend on interns and requisites of that kind.

Under the constitution, the salaries of the members themselves are supposed to be set by the Congress. Congress has tried to weasel out of this responsibility in all sorts of ways because it is terribly painful for them to deal with their own salaries. They have developed a device called "a legislative veto" in which they have essentially delegated to the President the power to set the salaries of members of Congress on the "let George do it and take the flack" theory but it doesn't work that way because then the Congress maintains a power to veto the President's recommendation and some louse will always come along and force a vote on that.

The Chairman: I think we can conclude that the committee is the cement that holds everything together in the United States. If I can speak on behalf of the members at the seminar, I would like to take this opportunity to thank you very much for your participation and lively answers to the questions from the floor. Thank you, Doctor Kravitz.

The session adjourned at 6:04 p.m.

TUESDAY, OCTOBER 16, 1979 - EVENING SESSION

Chairman:

The Hon. Senator Duff ROBLIN, P.C., Q.C.,

Subject:

The Community and Committees

Main presentation:

Mr. Hugh PEACOCK,
Legislative Representative
Ontario Federation of Labour

Participants:

Mr. Kenneth BAKER, M.P.,
House of Commons
United Kingdom

Mr. Felix BELAMY, M.P.,
Trinidad and Tobago

Mr. Saul CHERNIAK, M.L.A.
Legislative Assembly
of Manitoba

Mr. Peter DOBELL
Director, Parliamentary
Centre for Foreign Affairs
and Foreign Trade

Mr. John HOLTBY
First Clerk Assistant
Legislative Assembly of Ontario

Mr. Philip LAUNDY
Director, Research Branch,
Library of Parliament, Ottawa

Mr. Donald LIMON,
Clerk of the Services Committee, and
Secretary to the House of Commons Commis-
sion
United Kingdom

Tuesday, October 16, 1979

Evening Session

—Summary—

The Community and Committees

Mr. Peacock's presentation was premised on an appreciation of the importance of groups in modern society and on the view that the parliamentary process must encourage and accommodate representations from groups and citizens. According to Mr. Peacock, this is best accomplished through the committee system. He discussed the increasing tendency of the Ontario Legislature to hold public committee hearings on bills, and indicated how this has improved the legislation.

Given the pervasiveness of government regulation, Mr. Peacock argued, it is imperative that persons affected by regulation have the opportunity to present their views. Again, committees can serve as the crucial link between the citizenry and the law-makers; their ideal role, in Mr. Peacock's view, is in information-gathering and in serving as a feedback mechanism from Parliament to the public.

Finally, Mr. Peacock discussed the consideration of estimates by committee. He argued that much of the political cut and thrust of debate is lost when estimates are moved from the Chamber into committees, and also that ministerial responsibility suffers when civil servants are allowed to answer for ministers in committees.

Senator Roblin used illustrations from his experience in Manitoba and in the Senate to support his view of the importance of involving, through committees, the general public in the legislative process. He also explained how Senate committees deal with bills and the ways in which this involvement can make for better legislation.

The ensuing discussion centred on the advisability of public committee hearings on tax bills, on the role of interest group spokesmen, and on the question of committees sitting outside the Capital.

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
TUESDAY, OCTOBER 16, 1979.**

The Seminar met at 8:25 p.m.

Mr. Holtby: Ladies and gentlemen, welcome back for our evening session. I congratulate you for your stamina; this has been a very long day, but I know that this evening's session will be an interesting one.

The chairman this evening is the Hon. Duff Roblin, now a member of the Senate of Canada, and recently appointed Deputy Leader of the Government in the Senate. The Senator was first elected to the Manitoba Legislature in 1959, was sworn in as Premier and President of the Council in 1958. He held office until 1967. He is a member of the Queen's Privy Council for Canada and was summoned to the Senate in 1978.

This morning we heard from a Premier in office—very much in office, I think, from what he said—and I think when we get around to some remarks later Senator Roblin will give us his perceptions of politics after having served as a Premier. Now he serves in the Senate. We have not as yet studied the Senate Committee System during these proceedings.

To open the discussion Mr. Chairman, I would like to introduce Mr. Hugh Peacock. He is a former member of this House, having served from 1967 to 1971 as a member of the New Democratic Party for a seat in the Windsor area.

The interest that Mr. Peacock held in procedural matters eminently qualifies him for participation in this seminar, but, in addition to that, he is also the legislative representative for the Ontario Federation of Labour, so he is around these hallways representing his—if you will pardon the expression—clients, his community, on a regular basis, so he sees this House in a different perspective than a member. So far we have talked about committees from the member's perspective.

With that, Mr. Chairman, I invite you to assume the chair and open the proceedings.

The Chairman: Life is full of pleasant surprises, I'm glad to say, and it is a pleasant surprise for me to learn that as well as being chairman of the proceedings tonight there is a possibility I may be allowed to say a word or two about how the Senate works, particularly with respect to committee activities. But that, if it is to come, must come later because our first duty tonight is to endorse the welcome that Mr. Holtby has given to our guest, Mr. Hugh Peacock, who is to speak to us briefly. I hope not too briefly, for I know he has something very much worthwhile for us to listen to.

You have heard that he has been a member of the Ontario Legislature, so he has been on one side of the committee table. Now we know that he also represents the Ontario Federation of Labour, so he is on the other side of the committee table, and surely that ought to be a most sobering experience for any ex-politician. I am sure that it is as a result of that experience what he has to say to us tonight will be very valuable to us, because it's awfully important, I find, in politics to try to grasp the perspective of the other man. It's so easy to sit behind your side of the table and express your point of view on matters without really understanding the point of view or the presentation that people on the other side of the table want to make because things that we do as legislators affect them very closely and very deeply indeed. So I think it is extremely fortunate and a compliment to the organizers that we have been able to get Mr. Hugh Peacock to tell us something about committee work, seen from both sides of that committee table.

Mr. Peacock, would you please take over.

Mr. Peacock: Thank you, Senator, distinguished ladies and gentlemen. I had at first almost to repress an urge to begin by saying "On behalf of the 850,000 members of the organization which I am pleased to represent here tonight." Inevitably, each submission that the Ontario Federation of Labour and the many other community organizations like it offer up to committee after committee begin with that same ritual.

One of the difficulties of tonight's presentation is to deal with the first question that presents itself in the topic for tonight's discussion: the community. I must confess I struggled with that for some time and have not decided whether I did so successfully.

In our society and our political economy we have such a collection of interest groups—the rod and gun clubs, the great business organizations such as the chambers of commerce and even the lesser business organizations such as the Canadian Federation of Independent Businessmen in this country, which have been so successful in the last few years in generating representations to the Parliament of Canada and to the Legislatures. We also have pensioners clubs, recipients of family benefit allowances from the Government of the Province of Ontario, consumers' associations, trade unions and central labour bodies such as the Ontario Federation of Labour and the Canadian Labour Congress, charitable institutions, groups that spring up from time to time only to fade away, others which obviously are going to have some permanency, various organizations and advocacy groups promoting the advancement of women, for example, or those opposing the further development of nuclear energy generating stations for the production of electric power, and so on.

It becomes extremely difficult to characterize with any degree of uniformity or consistency the community that the Parliament and the Legislatures must listen to. It's a cacophony of voices. You are besieged and barraged by all of these interest groups.

Our society is so well organized in the kinds of groups that I have mentioned, at least for the 10 or 15 per cent of the population that participate in them, that we have to acknowledge their existence and their tremendous influence on the way in which Parliament and the Legislatures do their business.

So it remains one of the great tasks of the parliamentary process to accommodate, to stimulate and to encourage the submission of representations by all of those other people, individuals and smaller, lesser groups that have some common interest, so that they come before us and make themselves heard.

The validity of the interest group, though, I think is unquestioned. The interest group is an intermediary between citizens and their government. It helps Parliament with the great task of balancing of interests. Certainly as a trade union official, with a background in the trade union movement prior to becoming a member of this Legislature, my perspective was upon the brokerage of interest groups and pressure groups and the great economic interests of the society and some of the social interests as well.

Representations to Parliament and to Government are inherent in our political system. Historically of course, you have the redress of grievances as one of Parliament's highest functions and the one for which it stands highest in the public esteem. But there are also contemporary factors that we must look at.

First, we are a highly interdependent society. I have already mentioned the multiplicity of groups. This is clear when one makes a decision or decides to start on a campaign, as we in the Ontario Federation of Labour did last Saturday, a campaign to prevent in our view the further erosion of our public universal scheme of insurance for the provision of medical services in this country. This campaign has brought a number of other organizations into its orbit which have joined with us, and so on. There is a ripple effect to what every interest group does in its advocacy of its own needs.

Secondly, a democratic society moves by persuasion, not by force. That makes us, whether we are legislators or whether we are representatives appearing before you, the lawmakers, really dependent on two large factors that the decision making process requires. You have the technical sophistication, whatever that may be, in the way in which you present your case. You also have the level of acceptance of the decision that is reached after you have presented your case and after all the other groups have presented their cases. That is, the level of acceptance of the decision that will be offered by those persons most affected by it.

Thirdly, the growth of government, has itself been a cause of increased representation activities. For example, the multiplicity of spending programs on the individual. This involves not just industry and business although that remains a very, very large factor in representation activity, particularly if one's job is dependent on a government subsidy to maintain production of an aircraft or some other major industrial

product. Because of the government's growing role in the regulation of so many aspects of our economic and social activity, in the regulation of environmental pollution for instance, if a person is to be subject to public policy it is not surprising that he or she wishes to participate in the formation of the policy.

That was one of the cardinal principles laid down by Mr. Justice McRuer in his very famous report on civil liberties in the province of Ontario which was being submitted to the Legislature at the time I became a member in 1968. The person who is affected by the government regulating process—he was speaking of it more specifically there—must be allowed to share in the determination of the standard that will protect him from some other interest group's impact on him, whether it's to stop the paint peeling off the house from the fallout of sulphur dioxide from a factory, or whatever. The community definitely has an interest in standard-setting of all kinds.

Fourthly, there must be a grouping of interest. We have such a diversity, a multiplicity of voices; Parliament's mechanism helps to bring together, helps to organize and sort them out and select who will be heard if on no other basis than lack of accessibility in the past.

Fifthly, it is out of the question for MPPs to be fully informed all of the time on the great variety of confidential matters or interests that operate within their own geographic constituency.

These are some of the bases for representations. The shorthand way of referring to them is lobbying, a word that has not always been in good order. Lobbying has been likened to sex. At one and the same time they are both regarded as healthy and natural acts, but both should be carried out in private for the best effect.

I think it has been observed a number of times that the stronger you are in terms of your interest group position in society, the more likely it is that you will be approaching Cabinet ministers and civil servants on a one-to-one basis rather than appearing in front of parliamentary committees and individual members of Parliament, and that if a lobbyist is seen on Parliament Hill or anywhere else approaching individual MPs, his competitor lobbyist knows that he has already lost his cause. He has lost out with the people who really make decisions in the office towers and in the Prime Minister's office and cabinet office.

Carrying on representation in a private manner is no longer the case in this province. Perhaps it has not been the case for much of our history at the provincial level because of the different kinds of programs that governments of the federal and provincial levels engage in. When I first became a member in 1968, I cannot recall more than a few groups of people arriving to speak to the Legislature and its committees, such as those affected by changes in the Assessment Act. Of course there were always those municipal leaders who were affected by private legislation being sought from the Legislature.

The committees have grown in scope and importance enormously since that time. "Committees," one member of this House has said, "are important; without them MPPs might as well just shake hands and deliver birthday scrolls to the elderly". Many members are assiduous in that task and rely to a great extent in their chances of re-election on that kind of constituency work. But increasingly the performance of members and the chances of re-election are being gauged by the public through their work on committees. For example, in the most recent session of this House, public hearings were held on 11 bills. In the Legislature in which I sat, I cannot recall an instance of a bill going to a committee, other than the committee of the whole House, except private bills, the Assessment Act, and The Labour Relations Act amendments of 1970 which did go to a standing committee for representations.

The bill that is now before the House, Bill 19, on the amalgamation of the Ministry of Colleges and Universities with the Ministry of Education, has attracted something in the order of over 100 submissions, all of which have been given in public and on the record. The pleasure which one of the groups reveals over its influence in this matter is recorded on the page of a recent issue of the University of Toronto student newspaper, *The Varsity* in which the President of the Student's Administrative Council calls the decision of the committee to postpone further action on the Bill a major victory by and for students. He said "it is clear that because of concerns voiced by students and others, the members of the justice committee now realize that the issues at stake are too important to allow the bill to be rushed through." Perhaps he echoes the American congressional system.

Certainly that would not have been possible in a majority government situation. Since the rules require that the composition of committees reflect the standing of parties in the House, opposition members hold a majority of the seats in standing committees. They may then combine from time to time to carry amendments which, while meeting the needs for one or more group affected by the legislation, may steer the bill well away from the direction the government wishes to take, though still remaining well within the broad principle of the bill.

Since such votes do not raise the question of want of confidence, even government members may be persuaded to support an amendment opposed by a minister.

The position of chairmen too has changed. They are viewed, I think, as being less partisan because more Opposition members are chairmen in this minority government situation. In 1978, four standing committees, including two handling legislation, Social Development and Justice Administration, were chaired by Opposition members. The enhanced role of the Chair has probably improved the chances for amending bills in committee compared with the majority-government days. A chairman of the government party seated beside a minister and senior officers of a ministry, may well be perceived to be leading the committee so as to reflect the government's objectives more so than when the Chair is held by an Opposition member.

Some very substantive pieces of legislation have been put through in this new political balance of power. Theoretically, committees are not supposed to deal with the principles of a bill, only the details. Yet it is difficult to avoid questioning the policy basis behind the drafting of the provision of a bill or even the bill itself, such as the continuation of rent control, when competition between parties over policy differences is keen.

Here is an example from the handling of Bill 70, the Occupational Safety and Occupational Health Act of 1978, with which I was deeply involved. The government's draft on first reading did not contain a provision for the mandatory testing of hazardous substances used in a work place. Nevertheless the committee wrote one in, although it applied the procedure, at the government's urging, only to so-called "new chemicals". Whether such an insertion of new material into a bill violates the rule limiting committee work to perfecting detail, I do not know and I am not about to ask Mr. Speaker Stokes for ruling at this time. Clearly that experience illustrates the flexibility of the process at the committee stage. The framework of a bill becomes much more elastic in the hands of a standing committee, and it raises the expectations of interest groups, such as my own, that we will get more of what we want for our members by having a bill go to committee. We can speak to the bill there and we can be, we think, more persuasive.

Prior to this time, our representations to the government usually took the form of what we called a cap-in-hand session. I am sure by that label you can judge our opinion of the efficacy of our annual meeting with the cabinet and our reading of a long brief on every subject on the waterfront from housing to economic policy, pension benefit changes, and the labour relations law of the province of course, which most directly affects us. We have for some time, particularly at the federal level, come to view those kinds of representations to government with a jaundiced eye.

In a situation such as Ontario's—and I hope the passage of new rules in the federal house will give committees much more work there—the focus will undoubtedly shift to the work of committees and away from submissions to the executive. Because they exist, because of the minority government situation, these committees do have an impact on public policy. Governments tend to be more careful in the drafting of their legislation before it is introduced because they know they can expect closer scrutiny.

The government must be more amenable to changes proposed by members which arise out of the members' party policy or the representations of constituents for interest groups.

The experience of renewing rent control and reforming Landlord and Tenant law has prompted many members of this House to look at the procedure of sending legislation to committee after introduction and first reading. Occasionally this procedure is followed in the province of Quebec, where as Graham White notes in his excellent background paper the subject matter of a major bill is referred to a committee for public hearing. Surely it is unavoidable, indeed, desirable that the principle of the bill will be discussed by those who appear before the committee. Inevitably such representations will lead to members of the

committee offering amendments which impinge on the principle of the bill. It should not be the Chairman's job or even the Speaker's, I submit, to rule on the legality of these motions. If the committee adopts amendments prior to a debate on principle, then either the Legislative Chamber will confirm them on second reading, with the approval of the government, or the government will bargain changes to dilute the effectiveness of the committee's amendments, or the government will simply have to take the political consequences of not proceeding with the bill as amended by the standing committee.

The risk of alerting the character of a bill too much for the administration to accept was well illustrated again in the government's handling of Bill 70. It was reported back to the Legislature by the Standing Resources Development Committee on February 22 of last year after a month of hearings and clause by clause study, but it was not called for consideration in Committee of the whole House until mid-December 1978.

At that time, what was effectively before the House was not the report of the committee, with the various amendments that the committee had adopted and reported back to the House, but a sessional paper, which the Minister of Labour had prepared, including changes that he wished in the bill, as contrasted with what the committee was reporting back. It was an interesting device of getting that piece of paper, with the full text of a major piece of legislation, in front of the House and calling it a sessional paper. I think the Chair required that each amendment be put in the order in which it appeared in the committee's bill. By and large, those amendments that the ministry desired were accepted by the House.

Aside from the risk of the government locking up a bill, one other concern I would have in sending out more legislation to committees and allowing committees to amend them substantially and impinging on the principle, is that the government of the day might use the opportunity of rule changes to restrict the authority of committees to holding hearings only, leaving the Committee of the Whole House to do the detailed clause-by-clause examination.

If bills do not go to committee, or if they are not amended in committee, they will not be amended at all. As the public has no means of addressing the Committee of the whole House, it is almost imperative that a bill go to standing committee if an interest group is to persuade the Legislature to improve a bill to the advantage of that group.

I want to turn to another major area of committee work which was of some interest to me: estimates. MPs do not scrutinize expenditure plans of the government. They debate policy and program administration. Usually the alleged failure of these is the subject for debate. Graham White describes in his background paper the 350 hours spent on policy subject area estimates in both the House and in the standing committees since 1978 as "mind numbing". I agree with his adjective. Committees are the wrong forum for calling a minister to account. Though I was member of the 1969 select committee which recommended sending estimates outside the House to ease the workload, I have come to the conclusion that in doing so we lost a large measure of that atmosphere of confrontation and challenge which on occasion makes a legislative chamber the greatest dramatic stage of all.

A typical evening in an estimates debate in standing committee might consist of repetitions of the lead-off critics' remarks; a series of constituents' letters being read, usually complaining of some failure of a government administrator to accord the constituent proper benefit that he was entitled to; odd attempts at cross-examination; and a fair degree of movement by members leaving the room to go to another committee meeting or to make phone calls, or to do other business. The greatest point of criticism in the process is that in reading the Hansard of the proceedings of standing committees, you will find page-long answers by middle-ranking program directors in the civil service. The minister is not compelled to take part in the debate. He may engage in conversation with other officers of the ministry, or sometimes look very relaxed and quite out of the whole process.

In my view, the accountability debate should take place in the House. The committee work should be an information-gathering or feedback process. In the House, the minister is much more reliant on his or her own grasp of the issues and management of the program. In committee, it is sometimes impossible to find an empty chair among the solid ranks of information-laden officials just waiting for a summons to the microphone to answer for their minister.

If the minister is under attack in the House, colleagues may come to his defence, but at least one can gauge the minister's performance in the main forum. It is not as easy to sustain a debate in committee, as members are usually called on in turn as they catch the chairman's eye. The next member to speak may launch off on an entirely different grievance, or even on another item. Effective estimates debate, to my recollection, took off when a series of well-informed and/or oratorically skilled members jumped in on someone else's lead, each adding some refinement to the argument, and helping put the minister on the spot. It has been said, over and over again, that the parliamentary system is based on competition, not consensus. If anything, there is a discernible tendency to consensus in committee, especially with the mutual commitment to make minority government work. The real cut and thrust of debate, which is such a large part of the accountability process, if for no other reason than it attracts much more press attention, must be restored. It may be that greater use should be made of concurrence debates in the House.

The other danger I see, in the extensive use of standing committees for estimates debate, is that the proposition that civil servants themselves should become answerable for policy administration, begins to take on some hold. I think it's essential that we retain the single principle of ministerial accountability, and make the minister answer in all cases. I don't mean on every question that is raised by an MPP, but on final accountability the minister must be the one to answer.

I'm not suggesting a return to the old system of exclusive consideration of estimates in the House. Despite the streamlining of recent years, estimates continue to eat up great blocks of the members' time. But an example of what could evolve, is the work in May and June of this year, by the Standing Social Development Committee of this Legislature, to which was referred the annual report of the Ministry of Health. The report was only a peg on which were hung terms of reference, so that the committee gave consideration to the closing of the Lakeshore Psychiatric Hospital, near Toronto and to the government's policy on cutting back hospital beds in active treatment hospitals around the province. The standing committee held hearings, separately, on these two matters: the psychiatric hospital closing, and the general hospital cutbacks. It submitted its report on the psychiatric hospital closing late in June. That report was debated in the House.

The committee heard from hospital administrators; social workers; community agencies; other hospital officials in the area, who were dependent upon the facility for that transfer of patients; local residents, many of whom acted as volunteers in service with patients and staff of the hospital; trade unions representing staff; staff members themselves, and the psychiatric patients' association.

Instead of using a large block of time to go through the entire health ministry estimates, item by item and vote by vote, the committee was seized with a very large subject matter, indeed, within the Ministry of Health. I understand that the minister goes back to that committee tomorrow to answer whether or not he accepts various committee recommendations.

One member who served on that committee, tells me—he's in the Opposition, needless to say—that he regards the innovation as one of the most successful and personally satisfying experiences in the committee work that he has engaged in. You might protest that the Standing Social Development Committee was really functioning as a Select Committee in that instance but that is not so. The delegations that appeared were involved as immediately as possible in the vortex of a major policy struggle in this Legislature. This was triggered by an administrative decision, influencing a whole variety of interest groups. It was triggered also, within the ministry, by budgetary considerations. These were paramount, the minister said to the committee.

Without waxing too enthusiastic about the Social Development Committee's work—after all, the government was not dissuaded from its course, on the first matter—I think the experience will be seen to validate the proposal that estimates proceedings should resemble standing committee handling of legislation. That is, policy field committees should selectively hear from the users of government services, the clients of government benefit programs, and advocacy groups which assist recipients and other clients. For instance, Community and Social Services Minister Keith Norton recently announced a new expenditure program, to assist mothers on family benefits allowance to enter or re-enter the work force. But almost immediately, some recipients objected, that either the short duration, or the lack of day-care facilities

would render the program ineffective. These objectives appeared in a compressed form in the press. Some of the groups associated with the program might take their concerns directly to the minister, and meet in his office here in Queen's Park. They might or might not approach the press, following that meeting, and tell the press how the minister received them: always sympathetically, of course. But until the minister's estimates are next in front of a committee, there will be no open scrutiny of the merits or shortcomings of that program.

In the past, members have relied heavily on casework as the source of information in which to participate in estimates debate. Often, however, the intervention is on behalf of an individual constituent; for instance, in the hopes of winning a reversal of a denial of benefit, rather than an attempt to evaluate a whole program. While casework problems can signal the need to improve administrative techniques, it is rare that a pattern of casework problems can be brought to an estimates committee.

What I am suggesting in effect, is that when the Social Development Committee turns to consideration of estimates of the Ministry of Community and Social Services, it might, on its own initiative, take up an in-depth examination of policy, for example, in the operation of income support programs such as family benefits and general welfare assistance. Clients of the programs, clients' local associations, advocacy and voluntary planning organizations, and agency staffs could give testimony about the efficacy of those programs. The committee could also be empowered to hear from outside experts in those fields.

With the help of staff, the committee could then digest submissions, in preparation for its own debate on the estimates with the minister and his officials. If some aspect of the issue grew in importance, it could be brought to a head in concurrence debate in the House. Even performed sporadically, such in-depth examinations of policy would tend to impose a much higher level of accountability on the administration.

The selection of major themes for estimates work obviously attracts some of the benefits of the third large committee activity, special studies and investigations. The increase of health care premiums, pollution control orders, and hospital closings are some of the special studies conducted by committees by the device of consideration of annual reports of ministries or boards, such as the Workmens' Compensation Board.

While the special studies do take up a large amount of time, they probably get more press attention and more community input, and higher MPP interest than any other activity except the House question period—where of course the public has no input whatsoever—and where many of these issues were developed in the first place.

Through the use of good staff, and the scheduling of expert testimony, special studies allow members to gain a much greater grasp of affairs. I would like definitely to see some of these features of the special study activity applied to estimates consideration, especially that of representations by the interest groups.

In conclusion, then, I'm obviously an advocate of the strength and expansion of the role of standing committees. The advantages are clear. They increase the opportunities for public participation, and so increase the appreciation of the public and its confidence in the parliamentary system. I think it stimulates better drafting of bills, and the perfecting of bills. It imposes a greater sensitivity on the government in its planning of legislation, and in its decision making and programs. It generally reinforces the notion of responsible government. It gives MPP's a much better opportunity to develop their skills. Members have a much greater sense of satisfaction out of their participation in parliament, a sense of getting something done through their work in committees. It's not possible to say what might happen to this innovation and expansion, in the event that Ontario were to return to a majority government position in the near future. But I'm sure that no one will look back on the period through which we have just passed—two periods of minority government in the Province of Ontario—without seeing in the innovations that have taken place here, a very heartening and encouraging example of the liveliness and survivability of Parliament in the face of strong executive authority. I think that's the point on which to conclude. Thank you.

The Chairman: Mr. Peacock has just given us a very interesting and incisive examination of the committee system as he sees it developing in the province of Ontario in the circumstances of a minority government. He has given us plenty of food for thought in that connection.

I would like to broaden the arena of discussion a little bit by telling you of some of the things we do in other provinces of Canada and perhaps also in the Senate of Canada on the same subject, because I am a great believer in the value and advantage of a committee system which provides an opportunity for the public to say what it thinks.

We who are legislators make the laws, and these laws impinge on all the people in our jurisdiction. I think that there is something highly salutary in allowing the people, who will have to conform to the legislation that is prescribed for them, to be able to express their views about it before it becomes law.

In my own province of Manitoba, we have had a rule over these many years, preceding the time that I was the Premier of the province and I am sure continuing to the present, whereby every statute that was proposed to the Legislature of Manitoba, (with the exception of those dealing with public finance and taxation, which for obvious reasons were confined to the Committee of the Whole), went before a committee of the Legislature where the public had a chance to say what it thought about it.

We had a very good rule there—at least, I think it was a very good rule. We never closed down any of those committees as long as anybody wanted to talk to us and, believe me, that was sometimes an exercise in patience because oftentimes you heard the same arguments over and over again from slightly different groups representing slightly different points of view. But it seems to me that it was very much worth while because, if I may share a secret with you that anyone who has been in government will probably be able to confirm, the legislation as originally drafted by the administration is not always the counsel of perfection.

There have been occasions in my own administration where I will admit—rather rare, no doubt—when the laws that we proposed to the Legislature were not exactly perfect and incapable of amendment or improvement. The Opposition were at the committees and they always had lots to say, and sometimes to the point. But we also had the chance to listen to the people who felt sufficiently moved to come into our Legislative committee chambers and tell us what they thought. If we kept our ears open, occasionally, and more than occasionally, we might get some good ideas as to how we could make that legislation a little better.

While I will not pretend to you that every idea that was presented at a legislative committee dealing with the laws of the province of Manitoba was immediately embraced by the government as being something that we wanted to adopt, I can tell you that on important occasions changes were made in legislation before they became enshrined in law, (that is before they went back to Committee of the Whole stage), which reflected some of the things we heard from the people of our province who came to tell us what they thought.

Maybe because Manitoba is a relatively small province, this is an exercise which is not too difficult to conduct: open the doors and let anybody come in, and refuse to close the doors until they all had their say. To those of you from jurisdictions where that kind of procedure is possible, let me tell you that I think it is valuable. Maybe it will produce better laws. It will give the people not only the impression, but the factual feeling that they do have an influence on their representatives in what they are proposing to do in the legislation of the province; it is conducive to a better ordering of government.

There is a great purpose and a great service that can be rendered to the public interest by making sure that every bill, excepting finance bills, does go to a committee where the people can say what they think about it. For those who are in charge, whether it is a majority government or a minority government—and I have had some experience in both of those—I think that it will be to the good, and in the public interest, that those people who have an interest, who have a concern, who have a desire to say what they think about things get the chance to do so. It makes them feel that the Legislature is not quite as far removed from them and their influence as they may have thought before they came. To give a man a good hearing in public, I think, is a fundamental responsibility of a Legislature.

In my case, it was some time ago that I took an interest in matters of that kind. I now must tell you that my experience in the Senate is very much different indeed from the situation I've just described. In the Senate I have recently received the highly honourific, and I stress the adjective "honourific", appointment as being Leader of the House. If you think Leader of the House in the Senate is a sinecure I put before you

the fact that on the government side there are about 25 senators and on the Opposition there are about 60 of them. So you can see there is no possible way, either in the Legislature or in the committee, that the government minority is going to be able to impose its view. It really means that I've got to do a lot of sweet talking if I am going to get legislation through the Senate of Canada.

But this has, I think, a salutary effect. In the committees of the Senate this same division of power is reflected. I don't know how many here have attended a meeting of the Senate of Canada. I don't really recommend it for a light afternoon's entertainment. When we are meeting in the red chamber it is really a formal and perhaps a little stodgy performance. I don't think I could grade it any higher than that. But I tell you, come to a committee meeting of the Senate and you will really find what goes on, because in those committees we have an opportunity to do the kind of thing I am talking about. Bills come to us from the House of Commons, and sometimes before they come to us we break the rules a little bit—I am sure that no Speaker in his right mind like Speaker Graham of Manitoba would ever approve of this—but sometimes when we find an interesting bill coming to the House of Commons, instead of waiting until it has third reading and comes to us officially for those sober second thoughts you hear about with respect to the Senate, we bootleg it in ahead of time. Before the House of Commons is finished with it, we bring it in and say we are going to study the substance of the bill. Not the bill itself, that would never do, but the substance of the bill.

So the Senate committee gets to work on the substance of the bill before the House of Commons is finished with it and this is where we sometimes do our best work. We then have an opportunity to do as I suggested, that is invite people to come. In fact we are like that parable in the New Testament where we go to the highways and byways and drag people in to hear what they've got to say, because sometimes they need a little encouragement to come and tell us what they think.

In those Senate committees we are fortunate in providing ourselves with a lot of good, expert advice on the issues under discussion. We have the opportunity to obtain our own expert staff, either in the government circle or outside the government circle, who can come and advise us. Because many Senators are there for an unconscionable period of time—you have to be 75 before they throw you out these days—over the course of the years a good deal of experience is built up among the members of these committees aided by first-class assistance from specialists available to us.

We can bring before that Senate the minister who brought the bill in. We can get him to tell us what he thinks about it, or we can get his deputies or anybody else in his staff and we can put them through the hoops.

We hear all the people who want to talk to us and we can say to the ministerial staff, "Here is a complaint that has been made about the legislation. What is your answer?" Often they don't have very good answers. It gives us a chance then to see what we can do to change the legislation to make it more practical and more palatable to the people.

We do all this, oddly enough, on the principle of persuasion. The government in the Senate is a minority and a small one. We have to do a lot of persuading with the other chaps across the way, but we also have to persuade the House of Commons. Because while the Senate in Canada theoretically, with the exception of money bills, has exactly the same power as the House of Commons—when you think about it, it is a horrendous situation but that is what it is—we very seldom use that muscle so that maybe it is a bit atrophied. We realize we are liable to get more if we can show by logic and reason and persuasion why changes in legislation ought to be made. If we can persuade Ministers before their minds are set and before they've taken a position on second reading in the House of Commons, which is a loss of face to retreat from, we've got a pretty good chance of getting some of those amendments and changes put in. Many of them are routine, inconsequential matters of drafting; some of them are matters of real substance.

I guess our batting average for those would indicate that about half the time we are able to persuade the executive in the House of Commons to amend legislation to take into account some of the recommendations we've made in the Senate. But we haven't been able to make them because we are so smart. We've been able to make them because we have had people before us who have pointed out

shortcomings and the defects, and we have been able to call on independent expert opinion to help us in devising those changes that should be adopted in the legislation.

I don't tell you all this about the Senate with the thought that you are going to burst out of this meeting full of enthusiasm for that rather archaic and interesting branch of our constitution. But I would like you to go out of here thinking that at some time, particularly through the committee system—that's what we're here to talk about tonight—the Senate does some good. If that were not so, if I could not persuade myself that was so, I doubt that I would be here talking to you tonight.

But to come back to the principle before us, the committee provides a degree of flexibility that one cannot find on the floor of the Legislature when parties are taking positions and when prestige and face and all that sort of thing is involved. It provides a system whereby changes can be made in such a manner that they are acceptable. It provides an opportunity for minority opinions and people who don't agree with the government's bill to have some input into the legislation that is being considered. It provides at least an opportunity for people of all kinds and interest groups of any sort to have a forum in which they may express their point of view.

And sometimes if you don't succeed, try and try again. I've seen several occasions when a committee could not accept an idea on the first go-round. You'd be surprised the number of times the seed that is planted will bear fruit so that we see good ideas and ideas for improvement incorporated in the legislation that eventually is passed. I've seen this in both the Legislature of Manitoba, and in my present transformation, in the legislation that is developed by the Government of Canada.

I am delighted to know that this meeting of the Commonwealth Parliamentary Association is dealing with this matter of committees. I'd like to say how refreshing it is to be back at one of these meetings. I think it is about 12 years or maybe 15 since I was at the last one—I think it was in Kuala Lumpur in Malaysia. I've always cherished the associations I have been privileged to make among parliamentarians throughout the Commonwealth and to recall the lessons I have learned by listening to other people express their points of view in dealing with their problems in their own localities. I guess that is what committee meetings are all about.

With those few observations which I feel privileged to place before you tonight, I think we may now invite those of you who have listened so patiently to fellows like Mr. Peacock and myself to contribute to this discussion.

Mr. Dobell: I want to add one other reason why I think it is important that legislation should be heard before committees. It seems to me important, and it is well illustrated by the American system, that those who are concerned about legislation should have a chance to express a point of view even if their point of view isn't taken. The very fact of having had the opportunity to come before the Legislature and to express the point of view is, I think, important in overcoming alienation within society about what is happening.

I find myself agreeing with Senator Roblin about the importance of bringing legislation before committees, but I don't see why finance bills shouldn't also come before committees. It seems to me the recommendations of the Canadian Tax Foundation were very persuasive and I hope the new government in Ottawa may be seriously considering this addition.

I wanted to make one slight addition to your list of phrases for the Senate, following up the point made by Mr. Peacock about a more effective use of parliamentary review of estimates. I have had occasion this afternoon to refer to the Senate finance committee and its work on the review of estimates, and what is important there is hearing outside witnesses.

One of the things I find deplorable about the House of Commons, as distinct from the Senate, is that, while the power exists when committees are reviewing estimates, to ask witnesses from outside the public service to appear, it is a power that is almost never used. There is no reason at all why House committees should not, when they are reviewing estimates, invite witnesses to come from outside organizations and comment on policy.

In one particular case, the House Committee on Foreign Affairs or External Affairs and Defence, under the rubric of the estimates, chose to write a report on the renewal of NORAD. That was considered perfectly acceptable by the Speaker.

I do have, leading from there, a couple of questions for Mr. Peacock. The first one arises out of ignorance. I have been impressed by the role that you play for the Ontario Federation of Labour, vis-à-vis the Legislature. My first question is, I am not aware of any similar person working for the CLC in Ottawa who relates to the federal Legislature. Is there such a person?

Mr. Peacock: No, there isn't, Mr. Dobell. In some respects I can say my job is unnecessary, it is redundant, because the very reason for the existence of a group such as the Ontario Federation of Labour is to promote the legislative interests of its affiliated members. So that means our President in particular, and our secretary treasurer, and any other number of our staff people, are pretty well regularly engaged in some aspect of representation.

Our President, for instance, is frequently with the Minister of Labour. He speaks for us on a number of occasions in front of cabinet in general submissions. He is a member of various advisory committees to the Premier and on occupational health and safety matters to the Minister of Labour, so that representation process if really being carried on at all times and at different levels of the organization, and so it is in the Canadian Labour Congress.

Because of the breakdown of the relationship over wage controls, it has not been carried on, until quite recently.

Mr. Dobell: The reason I raised the question is because it seems to me, just as I believe larger corporations are well advised to have someone in Ottawa who can intercede, speak for and generally inform, so I think a large community organization, such as the CLC, would be wise if they emulated the Ontario Federation of Labour and actually had someone whose primary task it was.

Now here is the second question, and it is a bit loaded. You have the NDP as a party which was formally associated with the Canadian Labour Congress, and I suppose that goes for the OFL too. In theory, therefore, your whole position is redundant, because you have a large number of members who are here to make your case.

The very fact that you exist seems to me to some degree to suggest there is a difference between being an NDP member and representing the labour movement.

Mr. Peacock: There is indeed and I believe the Speaker of the British Columbia Legislature is here this evening. Perhaps he could tell you of the differences that arose between the New Democratic government of that province and its trade union movement some years ago. Our interests are not the same. They certainly converge, overlap and match on quite a number of issues, but they are not always the same.

The recent involvement of the Canadian Labour Congress and its affiliates in the federal election campaign I think pointed out quite dramatically that the trade union movement is a collective bargaining institution. Its primary concern is the betterment of its members' wages and working conditions and their protection against economic dislocation—layoffs because of tariff, the changes and government withdrawal of subsidies to build airplanes or whatever. That is our role.

If one can be fairly brutal about it, the political relationship is a defensive one. It is very largely for the defence and protection of workers' interests that they support a political party which they think is going to heed their concerns.

I should say, through political involvement, whether it is in a political party or in the United States through various kinds of coalition movements, the trade union movement has been extremely effective, not recently, but in the early postwar periods, in promoting the establishment of large public social service programs which benefit an awful lot of people who are not in the trade union movement.

We do interest ourselves in programs like Medicare, programs like the Old Age Security program that provides benefits to every Canadian who reaches retirement age, in housing matter and so on. We believe there is only so much that can be achieved through collective bargaining, so that you have to work through legislation to get those benefits, those legislative goods, consumer goods in the hands of everybody.

The other point I think which should be made in reply is, again if I may use the example of Bill 70, I am not an expert in the field of health and safety. New Democratic Party members of the standing committee which dealt with that bill, one or two of whom may well have been very active in developing that issue, still found it helpful to have representations made on particular conditions that were going to be affected by that bill, a knowledge which they did not directly have.

The whole subject area of control of toxic substances is beyond the reach of most of us. Even in the labour movement where we are trying to deal with them, we in turn have to rely on the outside experts. So it was by a kind of feeding of that information and that expertise through representations to the committee, that we wound up with a number of key amendments on the control of toxic substances, on the establishment of a worker's right to refuse work which he or she believed to be unsafe. We had quite a struggle with that.

In our view, the government did not wish to legislate a strong, well-protected right to refuse unsafe work provision. It was only through the work of the standing committee that we were able to come up with legislation we felt was answering that problem.

Mr. Baker: Could I ask, following the answer you just gave us, as I understand it you feel it is a part of your responsibility, speaking for the organized trade unions in the province, to take an interest well beyond that would be considered to be labour legislation?

Clearly you have a standing on legislation dealing with employment matters, safety or work and the things you have just mentioned, on toxic substances, but do you feel it is going beyond, as it were, your collective brief to make representations on things like landlord and tenant legislation? What representations can you make that are more effective than representations by the local gun club on landlord and tenant legislation, since everybody is effected by landlord and tenant legislation, not just your members, or the local darts club, or whatever it might be?

So I would ask you why you feel you have to make representations, and what particular significance you can give in areas other than directly related to the well being of your members as trade unionists?

That apart—and it is very interesting to see how you operate in Ontario on the legislative side in a much more systematic way than in our country, I may say, where they tend to operate through the Labour Party, which organizes trade unions—what influence do you have or what standing do you have in the actual formative stage of policy? Are you summoned in or do you have set meetings a year with the government together with the local federation of employers, if there is one, before the budget, for example, or before the actual proposals are published on major industrial legislation?

Do you have a standing? Are you involved in trying to fashion policy at that stage?

Mr. Peacock: Yes and no. In respect of the budget, we regard the invitation and our appearance before the Treasurer in February of each year as a kind of ritual dance. Most of the trade union leaders who appear across the road in the Frost Building arrive believing that the Treasurer has already made up his mind about what tax changes he's going to make or what new spending program he's going to have. When he stands up in the House to deliver his budget address he can say: "Well, I consulted with this group and I consulted with that group and I have covered all the bases."

On the legislation that affects us directly, sometimes we are involved and sometimes not. This is a particularly delicate area for the government, any government, because it's involved in this tight rope walk, trying not to fall over too far in favour of one side or the other, management or labour. So, generally speaking, the government is reluctant to show its hand before the introduction of the legislation. In so far as we have an influence, in the formation of legislation, it has been through the traditional method of writing

briefs to the Minister. The last substantive change to the Labour Relations Act in 1975 followed a single submission on the act itself, concentrating on what we felt were important changes, changes necessary to make it easier for workers to join trade unions and get bargaining rights.

There have been no changes since, despite our annual submissions to the entire cabinet, despite our frequent meetings with the Minister. We have met with him on the question of grievance arbitration reform. That was reflected in a bill amending the Labour Relations Act. There, the pattern of delay, the high cost of the process, the inequities that had arisen, were so patent that the government had to act and it wasn't just our pleadings and our urgings that got it to act. The profession that deals in the business of arbitration, representing management and labour in arbitration matter, also had come to that position.

Now, why should we be interested in the forum of landlord and tenant law? First of all, of course, there is a selfish interest. All kinds of major economic organizations are competing for their share of our members' take home dollar. The supermarket wants to maintain its 30 per cent of disposable income. The automobile manufacturer wants to maintain his share of the disposable income dollar. Landlords, of course, in the face of rising costs of doing business, want their share and want to cover their costs. There are again conflicting interests for us. Our membership in the building trades may well be affected by changes in the landlord and tenant law that would discourage home building or industrial, commercial and institutional building.

It is hard for me to be more definite about broader interests in legislation. We have appeared recently in front of the committee on health costs and the landlord and tenant forum. I guess that's about it in the last session.

Mr. Holtby: Mr. Chairman, I wonder if I could invite you to go just beyond what I think both of you were getting at, but didn't quite. That is, the practice of committees of sitting only in the capital. Senator Roblin, you said you would listen as long as they kept coming to Winnipeg and I have a feeling as long as witnesses go to Ottawa, the Senate will hear them.

Mr. Peacock, in a way, it's in the interest of your organization that committees not travel too much in Ontario. Otherwise, you have a difficulty in making a contact here. I don't know if Donald Limon wants to get in on this as well but I think, when you are dealing with a Scottish problem or a Welsh problem, you move the committees out, move the Scottish Grand Committee out of London to Scotland. If you have a division in the House of Commons, let them vote by telephone or television. The electronics are there. The aircraft are there to do the job and I am surprised there hasn't been more of a push to move the institution of parliament closer to the people because we are not in the age of trains or that type of mass movement. We can now be in Thunder Bay in an hour and a half from this House. You can come down from Winnipeg in a couple of hours. It's not a big thing but there doesn't seem to be a major push to get parliamentary institutions out to the people that they serve.

Mr. Peacock: The legislation tribunals are certainly doing that, the Labour Relations Board, the Ontario Municipal Board and so on. You will find them travelling to different parts of the province to hold appeals hearings and generally to serve their constituents.

I think standing committees of the House dealing with legislation should do that; perhaps they have done so, have they not, in one or two instances? What it would mean to us as an interest group is that the so-called periphery, if you like, of our membership, say, a Labour Council President in Windsor or Sudbury or Thunder Bay, would have a chance to speak directly to a standing committee. When the legislation which preceded Bill 70 was before the standing committee on resources development in December of 1976, one of the finest submissions I have ever heard made to a standing committee was given by a local union president from Atikokan. It just happened that he was attending a conference of his union in Toronto and heard that the committee was considering Bill 139 which for the first time established a right to refuse unsafe work. He came up here and sat down in front of the committee table without any notes or preparation and for five minutes spoke about conditions of work in the mines of that community.

I was praying that we wouldn't be called next with our stack of written briefs and so on because there was no way of following that kind of presentation. It was a hard act to follow; it was so effective because it

was right from his experience. It was absolutely genuine and the committee was extremely impressed by it and I would certainly like to think that the opportunity for that kind of expression could be achieved by travel.

Mr. Cherniak: I have a few points I would like to make. First, as a member of a former New Democratic Party government, I can say the role of the trade union movement in the role that Mr. Peacock described, has validity just like the role of the Canadian Manufacturers Association or the Chamber of Commerce has. Even though it was a New Democratic government and presumably close to the organized trade union movement, I have to tell you that in my experience they were not treated with much more courtesy than others.

As a matter of fact our Minister of Labour, who is known to some of us present, refused to deal with the trade union movement in any way other than as a delegation just as the other organizations. It may be surprising, but those who know him may not be surprised to know that he would not consult with them or tell them in advance what he was going to recommend to cabinet. Rightly or wrongly that's the case.

Another point I would like to make is that, as our Chairman said, we in Manitoba have, for a long time, heard delegations speak at the committee stage on bills to voice their points of view.

I was really surprised to learn some years after my exposure to that policy that other provinces do not follow that practice. It surprised me because I agree with Senator Roblin that it is one of the most effective ways of getting good legislation that is not prejudged or debated on a strictly partisan basis.

I would like to remind him that not only did we deal with bills that way, but we dealt on certain limited occasions with white papers, with government policy papers, when we did form special committees and we did hear delegations. I think they had a tremendous impact on good legislation, and they indeed did go beyond Winnipeg and into the north and into the western part of the province and did indeed look for guidance in various parts of the province.

Our Speaker just reminded me that there was a recent occasion when there was a committee that went out to the north, I guess it was, where there were no representations, but that was because it was a commission appointed to deal with Auto Pact and nobody had anything that they wanted to say to our present Premier in that regard and they didn't turn up.

However, in the case of legislative committees, I think in the main, people have turned up, and that is worthwhile.

A third point I wanted to make was in relation to money bills which in Manitoba did not go out of the House. Since I had occasion to have a portfolio such as Senator Roblin did, the Ministry of Finance, I knew why I was happy not to go out of the House in order to hear delegations present their points of view on tax bills, but that was quite a personal thing. That was my job and I didn't want to go out to debate it at length with other people, but as our Chairman said, for obvious reasons, it didn't go out of the House.

I have to agree with Peter Dobell. I am not sure that the obvious reasons are correct reasons. If we were prepared, as he describes correctly, to hear everyone and not close the door until all had spoken and if we would be prepared to hear people speak up on tax bills to the same extent, which means lengthy hours, long weeks and months of listening, I am not sure that, other than our personal time, the reasons are so obvious. I would like to appeal to the Chairman to elaborate on just why he thinks that it was the right thing to do, since I have to tell him I am not sure it was the right thing to do.

I am so pleased with the committee system in dealing with bills—not being a Finance Minister and never expecting to be again—that I would like the opportunity to present a tax bill, let's say on sales tax or estate taxation, and listen to the public come.

I wonder if Senator Roblin would care to elaborate on the obvious reasons.

The Chairman: Certainly I would. I was describing what we did. I didn't go any farther than that in what I said. That was the procedure in my day.

I think, however, that recent experience, particularly when examined in the light of the Lambert Report on Government Finance, opens up some very constructive new paths which we should explore in connection with associating the people with the taxes they pay.

One of the things that struck me about the Lambert Report was the recommendation that there should be a pre-budget examination. This would include a presentation before a committee of the House of the economic facts of life, the forecasts, such as can be made, not just for the immediate coming financial year but for the next five-year period. That is a pretty ambitious task. Forecasting more than three years is pretty hairy, but you could try five, to lay the groundwork of facts which a Finance Minister has to consider when he develops his budget. I see no reason why that should not be placed before the public in advance of the event and the public given a chance to come and participate in the proceedings as we have been talking about here tonight. I think that would be very fruitful.

I think it would perhaps tone down or mitigate some of the expectations of some people as to what could be done in terms of expenditure and also the expectations of some people as to what could be done in terms of taxation relief and matters of that kind. So I think it would be an excellent exercise. My expectation is—I may prove to be wrong—that we will see something like that insofar as the federal government is concerned: a much more open approach to finance.

I think the whole question of budget secrecy is a relic of the past in most cases. There may be some budgetary items which will take effect on budget night which could be abused if the knowledge was improperly spread around, but mostly that is not the case. In many cases, budgetary changes have to do with correcting, changing or improving the laws we have now. They have to do with matters of fiscal policy, how we are going to set the fiscal stage to get the best results out of the economy, which don't have anything to do with the ways and means by which people could take advantage of a tax change, if they knew it was coming.

So there is a wide area of things that the Finance Minister says on budget night for which there is no real aspect of secrecy. We have made a kind of a shibboleth out of this thing. I am inclined to agree, from the result of my experiences in Manitoba and reading recent thoughtful contributions on this problem, that we can go a great deal further than we have ever done in exposing the financial situation before the decisions are made and associating the people with the nature of the problems, and that this whole thing about secrecy is a bit passé.

The government's financial manoeuvres are not so much the tax on budget night as setting the fiscal stage, the financial stage, for the working of the economy in the subsequent period. The absolutely necessary business of relating what we do today with our plans for the next two or three years is a thing which government seems never to do, at least in public.

It seems to me we have got to do that kind of thing. We have got to find out if we start a new program, what is it going to cost us five years from now, and matters of that kind.

So I don't think that I can quarrel too much with you, Mr. Cherniak, on that point, that we need a much more open approach. I described what we did. I really don't think we need to do it in the future in exactly the same way.

Mr. Laundry: I hesitate to utter a hearsay, but admirable though it may be to call witness before committees, isn't it possible that we might be overdoing it? Shouldn't we give some consideration to the importance of making sure that the right witnesses are called before committees?

In listening to this discussion and relating it to the situation in Ottawa, I have been asking myself how we would reconcile the admirable policies that you have been following in Manitoba with regard to hearing public presentations on bills with the pressures on parliamentary time in the Ottawa context.

Peter Dobell was saying that he would applaud the fact that the House of Commons didn't take greater advantage of its power to call witnesses from members of the public on estimates. We have to bear in mind here the tremendous pressures upon committees when it comes to considering estimates. They have

to report them back by a cut-off date. If they don't, then the estimates are automatically referred back to the House.

So, surely, since estimates are neglected anyway because of the tremendous pressure of other business such as bills, isn't it important that priority should be given to perhaps the departmental witnesses who can at least explain to the committees, inform them of what they want to know. I am not suggesting they necessarily always do inform them of what they want to know. I am just wondering what members of the general public could contribute in this area, admirable though the principle may be in terms of open government. This is an aspect that worries me somewhat.

The Chairman: If I may presume to attempt to answer that, you have put your finger on a very, very important problem. How can Parliament find time for all the things that we want it to do? The Senate is in a sense a much more relaxed place and we do have more time, and I think our committees are more effective, because we have the time that the poor Members of Parliament don't have. To be quite frank about it, I don't have to run around getting passports for my constituents very often and do the things that Members of Parliament have to do. They have an intolerable workload.

Mr. Comtois: Or get elected.

The Chairman: Or get elected. Precisely. I'm really in favour of an elected Senate but we can get into that later on.

In any case, I think the point is exceedingly well taken. I think you would have to reorganize the way in which you do business if you're going to allow the Parliament of Canada, as distinct from the Legislature of Manitoba—which is pretty small potatoes—to do the kind of thing that I've been talking about here tonight. I don't think you should get the public in on the estimates that parliament itself—as you point out—can't really come to grips with. It would just compound confusion if you had committee meetings on estimates. But you might have pre-budget committee meetings, which is quite a different concept and, perhaps there could be some public input at that point.

I think the point you are making with me is that we have to rethink the way in which these committees are to operate if they're going to do the kinds of things we think they should be doing.

Mr. Belamy: Mr. Chairman, let us get back to the labour movement since the trade union movement takes an important role in the economic development of any country.

I would like to examine your labour legislation with respect to the labour movement. You know that the strike weapon is the most effective means in settling trade disputes. I have two questions: one, how do you deal with essential services and non-essential services with respect to strikes? Two, what type of machinery do you have in your labour legislation to deal with the question of the settlement of trade dispute?

Mr. Peacock: First, strikes are prohibited in Ontario in the essential hospital services. Disputes are settled by compulsory final and binding arbitration. Arbitrators are appointed by the government and that's it.

In the matter of other sectors of the economy, there is some review now being made by one of the political parties of the Legislature as to whether teachers should have the right to strike. That right was formally given to them in legislation four or five years ago and it is now being questioned. But, generally, other than that, our governments have permitted the right to strike in a broad range of public services except for police and firefighters who, traditionally, have not had the right to strike in the province of Ontario.

The way in which trade disputes are settled causes us some concern. We don't think it's as effective as it might be, but it's not essentially a legislative matter although one small change to the Ontario Labour Relations Act would permit earlier mediation of disputes, as they appear on the horizon, without waiting for a strike to occur. That could be done fairly readily.

It's done in the province of Quebec. As soon as the collective agreement runs out, the union is free to strike and the employers are free to lock out, and the services of the government mediation officer are immediately available. Ontario is now developing what is called preventive mediation so that target employer-union potentialities for strife are visited by the mediators, who start a program to try to assist the parties to avoid a strike the next time around.

We find the Labour Relations Law very rigid in the province of Ontario. It's very difficult to change. As I mentioned earlier, we have recently only had one part of it improved slightly, and that is the way in which mid-term contract disputes are handled by arbitration. But, on the basic question, strikes are prohibited in Ontario as long as the collective agreement is in effect. It's unlawful to go on strike to try to settle a dispute. Certainly, our government does not agree that strikes are the most effective way of settling disputes.

We would like to see the parties given the freedom to decide for themselves whether or not they will use the strike or lockout as a means of settling mid-term contract disputes, because a number of key things may arise such as the introduction of technological change, health and safety matters, or a speedup in production. If you're locked into a three-year contract and the law forbids you to go on strike to object to those changes, and the employer won't discuss them with you, there is nothing you can do. You have to wait until the contract runs out.

Mr. Belamy: In the labour movement, where you have a break in communication, there seems to be a problem.

Mr. Peacock: A break in communication with the employer?

Mr. Belamy: A break in communication generally, because the employees are unaware of what management is doing.

What is the effort of your government to ensure that the labour movement understands management principles? Also, what are your efforts to ensure that both the labour movement and management are well grounded in proper industrial relation practices?

Mr. Peacock: One of our successes in lobbying, which has not depended on a standing committee of the Legislature, is the financing of trade union training. The federal government, under the previous administration, committed itself to a very large subsidization (in the order of \$10 million) towards trade union training in these areas. The province of Ontario, through its lottery funding, has granted our organization \$1.5 million to train workers in hazard recognition, in protecting themselves on the job and in making use of joint standing committees on health and safety in the workplaces in the province, under Bill 70. So we do get that kind of financial support. Of course, we generate our own, but that feature has been borrowed from Great Britain, in a sense, the Health and Safety Work Act, 1976.

Mr. Limon: I speak with a certain amount of trepidation in the presence of two distinguished members of our former Procedure Committee.

What Mr. Peacock said to us tonight seemed to me to tie up very closely with what Mr. Baker was saying to us in the afternoon. It gave us an interesting perspective on the work of select committees as seen from outside, from somebody who had once been inside. But before I come to that, I would just like to say, in response to Mr. Holtby's invitation, that travel, both within the United Kingdom and overseas by committees of the House of Commons in the United Kingdom has increased in recent years, has been increasing at a headlong pace in the last couple of years. I have reason to believe it may be diminishing in the future because it is getting to enormous proportions.

Mr. Baker posed three areas where select committees might profitably work. The second one which he mentioned was the one which Mr. Peacock commended as the most useful, in which the select committee chooses a subject and goes into it in some depth, hears outside witnesses and produces a report. That is the role which select committees in the United Kingdom have traditionally followed for many years with a certain degree of success. We all know the weaknesses of follow-up and the rest of it, but the reports, by

and large, have been useful and the work done has been carefully prepared and outside witnesses have always been heard.

The second role is the legislative role and whether these committees should play a part in examining, particularly, government bills. We've heard that the subcommittee of our procedure committee came over to Canada and, as a result of their experience, decided not to recommend that bills should go to these committees. It's not for me to say whether that was a sensible decision or not, but I think at the back of that committee's mind, also, may have been the idea that no British government was likely to recommend to the House of Commons that select committees should be given that power whether the Canadians had it or not. So, they recommended that the third of these areas should be done by select committees: the careful examination of estimates, government expenditure, white papers and the like.

This is where I would like to be optimistic, but don't feel terribly optimistic. Again, what Mr. Peacock said rather strengthened my fears in this field because, when all is said and done, books of estimates and government white papers are just about the most excruciatingly boring documents known to man. You can bring committees to the water of looking at them but they won't drink it. Our problem, I think, is going to be how to make the work interesting enough to excite the committees. I hope we're going to do it, and if hearing outside witnesses will help in that, I'm sure that's something which we should do.

The Chairman: I think we've had a very good discussion. For those who want more, our guest will be with us for at least a little while after we adjourn the proceedings so you're quite at liberty to tackle him face to face. Until that happens, I again would like to express our thanks in having Mr. Peacock with us tonight, and express my personal pleasure in being able to take part in these proceedings as well. Thank you.

The session adjourned at 10:05 p.m.

WEDNESDAY, OCTOBER 17, 1979 - MORNING SESSION

Chairman:

Mr. Patrick REID, M.P.P.,
Chairman,
Public Accounts Committee, Legislature Assembly of Ontario

Subjects:*Parliament and the Tax Payer's Dollars:*

- I. *The Lambert Report as seen by a Politician*
- II. *Recent Public Accounts Developments*

Main presentations:

- I. Mr. David PETERSON, M.P.P.,
Legislative Assembly of Ontario
- II. Mr. J.J. MACDONELL, F.C.A.,
Auditor General of Canada

Participants:

Mr. Robert ANDREW, M.L.A.,
Legislative Assembly
of Saskatchewan

Mr. Kwaku BAAH, M.P.,
Opposition House Leader,
Parliament of Ghana

Mr. Saul CHERNIAK, M.L.A.,
Legislative Assembly of Manitoba

Mr. Joseph-Roland COMTOIS, M.P.,
House of Commons, Ottawa

Mr. George CUNNINGHAM, M.P.,
House of Commons
United Kingdom

Dr. Maurice FOSTER, M.P.,
Chairman, Federal Branch, CPA,
House of Commons, Ottawa

Mr. John LEEFE, M.L.A.,
House of Assembly
of Nova Scotia

Wednesday, October 17, 1979

Morning Session

—Summary—

Parliament and the Tax Payer's Dollars

Part I—The Lambert Report as seen by a Politician

Mr. Peterson focussed his remarks on the Lambert Report on Financial Management and Accountability, which he praised extravagantly. He echoed Lambert in putting particular emphasis on accountability, and he argued that it is imperative that civil servants be held more accountable for their actions. He went on to analyse the crucial role of Public Accounts Committees in this process. In order to perform their job effectively, Public Accounts Committees, according to Mr. Peterson, must develop objective standards by which to judge government performance. In a related issue, he set out the case for much closer parliamentary review of "tax expenditures".

The final section of Mr. Peterson's presentation consisted of proposals aimed at salvaging the estimates process, which he sees as an all but pointless ritual. First, he suggests, the power to cut expenditures must be exercised in a meaningful way; secondly, Members' basic attitudes to government spending and to parliamentary scrutiny of public finance must be changed; thirdly, both Parliament and the Government must begin to do serious long term planning.

Part II—Recent Public Accounts Developments

Mr. MacDonnell began his comments by recording his wholehearted support for the largely unrecognized work of the House of Commons Public Accounts Committee. He then traced the relationship of the Auditor General to the Public Accounts Committee and provided some personal insights into recent and current reforms in auditing procedures and parliamentary review of the public accounts. He also explained the background to the establishment of the Office of the Comptroller General in Ottawa, and its great significance.

Mr. MacDonnell outlined the philosophy behind "systematic auditing" and "value for money" auditing, described the processes by which they are being implemented, and speculated on future developments in financial control and auditing approaches. He laid particular stress on the importance of improving the information available to Members, for example in the format of the *Public Accounts*, and described some of the reforms underway in this regard.

The discussion which followed the presentations touched upon the problems associated with defining criteria for programme evaluation, the auditing of Crown Corporations and the issue of accountability of public servants.

COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
WEDNESDAY, OCTOBER 17, 1979

The seminar opened at 9:40 a.m.

Mr. Holtby: Ladies and gentlemen, could we begin this Wednesday morning session on the very important subject of Parliament and the Taxpayer's Dollars.

May I also draw your attention once again to the background papers. There are two papers which you may find interesting to read after this discussion if you have not already read them. One by Martha Fletcher of the Research Information Service of our Library called "The Role of the Bundestag Committees in Financial Scrutiny and Accountability"; and the other by Terry Hall of the University of Toronto Law School entitled "For What It Is Worth: Parliament and the Taxpayers' Dollars".

One bit of vocabulary will keep cropping up, so for our friends from outside of Canada, when speakers mention "the Lambert Commission" they are referring to the Royal Commission on Financial Management and Accountability.

The chairman for this morning's session is the chairman of the Public Accounts Committee of the Ontario Legislature, Mr. Patrick Reid. He was first elected in 1967. I invite Mr. Reid to take the chair for this morning's proceedings.

The Chairman: Thank you, Mr. Holtby. Ladies and gentlemen we are going to be talking this morning about financial accountability and responsibility. We have with us two distinguished gentlemen.

It seems to me, after some 12 years in politics, that one of the things that is slipping away in our democratic institutions is the ability to come to a resolution or a realization of who is accountable to whom and who is responsible for what. Some of you may have heard my remarks on this particular matter in the past, but I would say to you, in all seriousness, that what we are going to deal with this morning is at the very root and fibre of our democratic system and that if we don't get a handle on it soon public scepticism is going to be so widespread that our very institutions are going to be in danger.

We have something called responsibility and accountability for politicians, called, of course, elections which occur every two years or four years, or if you have minority governments almost any time. Thus the public has, at least in their view, a sanction over the politicians to maintain accountability and responsibility. But where the system seems to have broken down, at least to some extent, is in the responsibility and accountability of civil servants to Parliament and thus to the people to whom they are supposedly being civil and of whom they are supposedly being servants. It seems to me that we must bring in a new system, a new attitude that deals with the responsibility and accountability of civil servants to their political matters. I don't just mean at the deputy minister level but at the middle management level, where the greatest proportion of civil servants in the high priced categories seem to find themselves. After five or six years on the Public Accounts Committee I find they are willing to accept no responsibilities for the actual management of public funds. I do not speak of policy, decisions that are made—as politicians we have to accept that responsibility.

With those few words I would like to introduce to you your first speaker this morning. Mr. David Peterson is the provincial Member of Parliament for London Centre in the province of Ontario. He is the financial critic of the government on behalf of the Liberal Party. He was first elected in 1975 and re-elected in 1977; he was a leadership candidate for the Ontario Liberal Party in 1976. Mr. Peterson is a lawyer and a businessman. He is also a member of the Ontario Legislature's Public Accounts Committee.

I should also tell you that in preparing for this morning I find that Mr. Peterson is almost a year younger than I, so I expect that from here on, David, I will be treated with due deference.

Ladies and gentlemen I would like to call on Mr. David Peterson who will speak to you on Parliament and the Taxpayer's Dollar.

Mr. Peterson: Patrick, it is not easy to defer to you on any occasion. Today I will, however, because we must be a trifle sensitive since, as you have noticed, there are two provincial Liberals on this particular panel—the chairman and myself—so in the interest of objectivity we must make sure we do not tilt too far to the left or to the right, but tilt exactly down the middle where we usually are anyway.

Let me preface my remarks by saying this: I sit in a minority Parliament in Her Majesty's Official Opposition; that gives me a perspective, which is the only perspective I have ever known in politics.

It is interesting that, in discussing some of these problems of accountability with other members, government members have a very different view. For example, government back-benchers have a very different view of the accountability of government and the government's responsibility to govern. I guess it depends on our particular perspective, and what we are fighting for at any particular time. How often have you seen people in opposition dramatically change their views upon assuming office in a government? We have seen that dramatically in the wake of the last federal election. It probably happens almost every time there is a change of government; but I would like to think an opposition position allows us to be a little more honest, at least at this particular time.

It was interesting talking last night at dinner with some of our friends from Ghana. I was discussing what we are going to be talking about today; they were talking about their priorities and we were talking about our priorities, and how different the priorities are.

Their priorities are the basic things: to get enough soap, to keep their month-old constitutional system alive and to keep it generating itself. Here we are, with a system very established, talking about the excesses of the system and how to control it. We are talking about the problem of having too much money and not husbanding our resources profitably when they are talking about the problems of just getting some resources for equal distribution.

So this conference has added a great perspective to my point of view on the whole parliamentary process.

It is my view that the parliamentary system is basically unworkable at best of times; the best thing one can say about it is that it has survived. I don't see any magic answer to the question of controlling government spending, with all of the attendant problems, some of which I am going to talk about—party discipline, the confidence problem and everything else. It is a question, I think, of creating the proper counterweight. The question is reversing the onus, the question is somehow putting enough pressure on the government, from enough different sources, that it will be forced into a new kind of discipline, a new kind of attention to some of the details of management.

I think those are some of the things Lambert addressed in his report. I want to address a few more that I think could be added, to Lambert's suggestions without any harm and in fact with some actual benefit, to bring, as I said, a countervailing pressure, a pressure on the government to realize that it is at all times accountable and has to pay attention to some of the details that heretofore it has not demonstrated it cares about.

Those of you from Canada will be quite familiar with why the Lambert Report came about, but perhaps I could give you just a little of the history covering the last 15 or 20 years. In 1962 John Diefenbaker, then the Prime Minister of this country, appointed the Glasco Commission to bring some efficiency, bring a new regime to the management of federal accounts. Basically it came up with a massive decentralized program, characterized by the theme, "Let the managers manage". It respected the professional nature of the civil service; it gave them the power, it gave them the authority, but without the responsibility which was the fundamental flaw, it set in course a major system of a decentralized civil service that we have lived with until the present.

About the same time, Maxwell Henderson was appointed Auditor General. Most of you know of Maxwell Henderson, a fellow with ice water in his veins and a fellow who was in many respects a

sophisticated politician. There was constant conflict between Maxwell Henderson and the Treasury Board, principally Bud Drury. It was a very uneasy peace. Maxwell Henderson took more authority on himself than the President of Treasury Board would have liked and you all recall some of the stories that came out: horses on the payroll and all of that kind of thing—those very dramatic examples of mismanagement or in fact fraud or complete neglect of the public accounts.

Those things did bring attention to a problem that was increasing, because at the same time, from 1962 to 1975, we saw a massive explosion in the role of government. Government spending went from 24.4 per cent of the gross national product, to close to 40 per cent today. An explosion occurred in the bureaucracy and in service programs in the reallocation of funds. The whole thing grew under the Glasco plan on a highly decentralized, and in many respects a not responsible, system of management.

Several changes came along the way. In 1973 we had the Wilson report on the Auditor General. Because of the tensions between Drury and Henderson they looked at the Auditor General's role and the Wilson Report came up with new recommendations for the Financial Administration Act, about the same time Mr. J.J. Macdonell with whom I am happy to share this day, was appointed Auditor General, and we have seen some dramatic changes under Mr. Macdonell's leadership. He was described by someone as one of the most apolitical politicians they've ever seen, but there's no question Mr. Macdonell has brought a very different perspective to the role of the Auditor General over the past few years.

Perhaps the most dramatic thing that Mr. Macdonell said in his 1975-76 report was—and I am sure that every person in Canada will recognize these words and they will go down in Colombo's handbook: "I am deeply concerned that Parliament—and indeed the government—has lost, or is close to losing, effective control of the public purse."

Of course, those words rang with every Canadian. It was a suspicion, a deeply held fear, shared by everyone. Mr. Macdonell, a man who has been able to maintain his independence and credibility, had the force of personality and stature to immortalize those words and force the government into action.

Hence, on the strength of that and other recommendations therefrom, Allan Lambert, a banker, was appointed chairman of the Royal Commission on Financial Management and Accountability to look into the financial management of the Government of Canada.

Mr. Lambert just reported, as you know, before the last federal election in that green book that you all have or have access to. There are copies downstairs and I recommend it to everyone. Those who are from jurisdictions that have not commissioned a report of this type, may as well borrow it from the federal government. It is fairly applicable everywhere. The document, in my judgement, is universal to the parliamentary system with minor modifications. I see it as an excellent piece of work.

Mr. Lambert, after his deliberations and after the amount of work he put into interviewing almost everyone involved, travelling about the world looking at every other kind of system available, at least that was roughly comparable, came to this conclusion:

...The serious malaise pervading the management of government stems fundamentally from a grave weakening, and in some cases an almost total breakdown, in the chain of accountability, first within the government, and second in the accountability of government to Parliament and ultimately to the Canadian people.

That was Lambert's conclusion. That's what Mr. Macdonell had been saying.

Lambert made a number of recommendations, which I want to discuss briefly with you. There are myriad suggestions, a lot of them in terms of internal accounting, but the subject today, of course, is the Parliament's role. How does Parliament keep a check on government spending, government efficiency, and government economy?

The first of Lambert's recommendations that I think is important is that he recognizes for the first time, and publicly articulates, that ministerial responsibility in many ways is a myth. He for the first time

has said publicly: "We must make the deputy ministers accountable." He wants them clearly accountable as the chief administrative officers of their particular departments.

I happen to like that very much but I would go a little bit further. It seems to me that in the parliamentary process, the committees attendant thereto have a right to reach even further down in the bureaucratic structure to look at, examine and name specific civil servants who have not been on their toes. It is not fair, it is not realistic, to suggest that a minister who functions generally as chairman of the board of a corporation, could be expected to personally care for and guide the expenditure and the appropriation of all the funds in his department.

I think it is time that this myth be exposed and it is time that something be done about it.

We have in government, because it is made up of individuals, myriad different types of personalities and kinds of talent brought to bear in the various roles. It is, I think, an accepted fact that ministers are not always appointed on the basis of management ability. In many cases deputies are. There is no question, in the last administration in Ottawa, that the administration had more faith, by and large, in the deputies than they did, in fact, in the ministers. Indeed, the important messages were carried by the deputy. It is time we recognized that, from a functional point of view and from an accountability point of view, rather than just giving them the authority as Glassco did, we must make them responsible as Lambert suggests.

I would suggest that we go further. I think it is the prerogative of the Public Accounts Committee and various other committees which examine programs and expenditures, to look deep down into the system. It should be the ultimate weapon of the parliamentary process for the individual politician to be able to name a civil servant.

Obviously he's entitled to his day in court. Obviously he's entitled to make a fair representation of his own position. Unless we operate with some kind of a discipline system—and I can think of no other one than that—it seems to me that we are not going to get the kind of results we have come to expect with this new attitude we are collectively demonstrating that demands efficiency, economy, and effectiveness in government spending. This is a thesis that's been articulated publicly on several occasions by the Chairman of the Public Accounts Committee, Patrick Reid, and one that I happen to subscribe to very strongly.

Another of Lambert's very major recommendations attracts me very much, although it has had a considerable amount of criticism, is for a standing committee on government finance and the economy to which the government would present a five-year fiscal plan every year. With the assumptions of the present tax system in place it would be upgraded every year. This, for the first time, would force a committee to scrutinize the balance between revenues and expenditures—something that is so rarely done when we look at the estimates. How often do we ask ourselves as politicians, "My goodness, they're spending that money. Where are they going to get that money?"

When do we really, except in budget debate and a few other grand occasions, apply our minds to the deficit and revenue problems. Where are we going to get the money and where are we going to get it five years from now? This would be, in my judgment, a very significant step despite all of the attendant pitfalls. It is not easy. It is almost impossible to project deficit, revenues, expenditures for five years. They'll constantly be shifting. But it is probably the most important recommendation in Lambert's report, at least to me. We need objectives, we need performance standards, we need something against which government action can be judged. Probably this is the single worst problem we face: we don't know how to judge them.

We have a program. We don't know whether it works or doesn't work. All we can do is form individual judgments. If we had the criteria that the government used—and we do not get that because we don't have the appropriate freedom of information laws in this country. We don't even know what their assumptions are. We don't know what their expectations are. With all the open-ended programs we have today, the so-called uncontrollable spending, we are left completely in the dark in terms of judging government performance. To me that is probably the most important recommendation that Mr. Lambert makes.

We need some objective standards. We need a committee to review them, as imprecise as they will be, and as difficult as that will be. That committee would also review, according to Mr. Lambert, taxation

matters; I find this very attractive. It is estimated today in Canada the federal government gives out something like \$8 billion in so-called tax expenditures—special incentives to special interest groups, oil depletion allowances, homeowners' grants and so on. At the same time, we're running a deficit of about \$12 billion.

If those tax expenditures were removed, the deficit would be far more manageable and, I would respectfully submit, not nearly as serious an economic problem as we have in this country today. Are those realistic and worthwhile expenditures of the taxpayers' funds? In fact, they are expenditures. Someone has to review them against objective criteria. That is a role for a committee on government finance and the economy. That's an excellent suggestion of Mr. Lambert's, and I think that's one that has provincial application too. We do the same kind of thing provincially. I'm sure all the provinces do. We do an accelerated writeoff for production equipment or machinery. When we give a sales tax incentive for production machinery or that kind of thing, then surely we have a right to an analysis of how it's working, and what's expected of it.

Lots of people would argue in a similar circumstance a general tax cut, for example, would be of far more benefit to the economy than a selective tax cut as these programs are.

That's probably the most outstanding recommendation as far as I am concerned. I like it and I recognize the difficulty attendant thereto.

The estimates procedure in the parliamentary system has been universally condemned and criticized. All of us who have sat through those committee proceedings have been frustrated, angry, have probably walked out prematurely on more than one occasion. It takes tremendous discipline to sit through the nonsense.

The question is, is it a system that can be salvaged? Is there any fundamental worth to that system? There probably is. According to Lambert there is, on certain conditions. There are a number of reasons for this dissatisfaction. Because of the parties' discipline, the partisan nature of the particular debate, because everyone wants to come in and make a speech about their local riding. Are we looking at estimates or are we looking at policy? It's one of the rare opportunities you have to get a minister or a deputy close by so you can harangue him about the creamery in your own riding or the road or whatever. It's mostly a bore to everyone else. The only good heretofore that I have ever seen is that it makes some reasonable constituency mailing on certain occasions when it is transcribed in Hansard.

Very rarely—I think on two occasions in the federal House in the last 20 years—have expenditures ever been cut. One was for \$1,000 for a minister's salary on one particular occasion; the government acceded to it rather than precipitate a vote.

The other problem, of course, is that if these things are cut, the government can construe it as a confidence question. When you take all of these things into consideration I suspect that most members in this House would share the frustration that I personally have experienced.

Lambert makes three recommendations essential to keep the estimates system alive, functioning and viable. Number one, he says, we have to upgrade the quality of the information; when necessary, tie into a freedom of information act. I am very happy to see the federal commitment on that. Who knows what it's going to bring but at least it's a step in the right direction.

Secondly, we must dramatically improve committee procedures. We need fewer committees. We need to lessen the workload of individual members, according to Lambert. He's recommending a maximum of 15 committees rather than 20 or more that there are now. He's recommending that they have specialized expertise, special counsel, special research staff to assist the members.

He's recommending that the committee chairmen be appointed for the life of the Parliament and be paid a decent stipend on top of their regular emoluments in order to make it a position of prestige and of some economic worth. That is a suggestion that the Chairman of the Public Accounts Committee in Toronto finds terribly attractive so Lambert has at least one supporter for that.

He is saying that we should announce the votes so that we don't have the substitution problem.

The third thing he is trying to do is build an *esprit de corps* and a commitment to purpose inside of these committees so that they will function as a non-partisan unit with the power to cut expenditures without a confidence vote, if they so desire. He wants to build the kind of spirit and commitment, communal commitment, non-partisan commitment to purpose as, for example, was found in the special committee that Mark MacGuigan headed on federal penitentiaries.

There was an example, in my judgement and in Lambert's judgement, of how a committee should function on a non-partisan basis. Everyone contributed their best—at least it certainly appeared so from afar. We have never been able to generate that kind of commitment to purpose, that kind of spirit in the estimates committees.

Lambert attempts to do that, although there are no guarantees. I have some reservations because frequently, members only respond when there is press there to report what they are going to do. You very rarely see press at an estimates committee, let alone a Public Accounts Committee. You never see press at the Public Accounts Committee when you are discussing the important things: the procedural details, the management systems, the accounting details, the things that bore most people. You see them when you have Judy LaMarsh there because you found out that she paid \$500 for a limousine to go home one particular night, or was living for \$400 a day in a hotel in Denmark or that kind of thing. It's the spectacular stories; it's the horses on the payroll that attract the press and attract the members. This is a fundamental weakness in the system. Mr. Macdonnell's whole thrust in his last few years has been to concentrate on systems, to downplay the spectacular even though they are handy now and again to assist in bringing a little profile for the Auditor General and for the Public Accounts Committee. It is time that we, collectively, as politicians, put our sights on the fundamentals, on the important things rather than just the superficial things.

Lambert argues for those three fundamental changes—upgrading the information, changing the procedures and a change of attitude by the politicians to make the estimates committee system work again.

What we have talked about here is a system of measures. No one measure is going to bring accountability and a new kind of responsibility to government. As I said at the beginning of my remarks, I view this question as one of reversing the onus, of bringing in counterweights, of bringing in comparable pressures to put pressure on the government to move in certain directions. No one is going to solve all the problems. It's like trying to change the direction of an elephant in flight with a pea shooter. One person, one act, just can't do it but if you have enough people with enough pea shooters, shooting from enough different directions, there's a good chance you will hit it in the eye and move it a little bit one way or the other. That's the way I see the kind of programs we need to put pressure on the government and on the entire bureaucracy.

A public accounts committee with an expanded mandate is one of the things that I would recommend. A public accounts committee needs the congressional power to initiate. We have that power in Ontario now but only by way of reference and only if we go back to the House, which we can almost do on demand, because the opposition parties control the committee. We have had some very exciting experiments in the Public Accounts Committee in Ontario in the last year or two because we have been able to explore contemporary matters, not just on a post-audit basis.

The problem with public accounts is that they're so stale when you get them. They are usually a year or two years' stale and they cease to be of very much interest any more. We need the power to initiate in public accounts, even in a majority government, with the assistance of the Auditor General or the Provincial Auditor, who should have the most expert staff that one can possibly have. We have had a number of examples in Ontario: we looked at the Royal Ontario Museum and various other matters because they were contemporary issues. We had to move quickly and we did have that power. I recommend that to you.

We have to bring back the objective standards. We have to force governments to tell us what their expectations are. In my judgement, every bill, every piece of legislation that comes into the House, and

every regulation, should have with it an economic impact study. I want to know what the government's expectations are and then, one year from now or two years from now, we can sit down and say: "This is what you projected. This is what you did. Why didn't it measure up? Let us review that."

It is impossible for the opposition to form those objective standards. It must be the government's responsibility and they must be forced to do it. I would say the same thing must apply to all tax expenditure legislation which should have an economic analysis—the effects on unemployment, investment, balance of payments and all of the other things that go into making a particular piece of legislation worthwhile or not. We need at the same time, as part of this package, freedom of information. We need that everywhere in this system. We need far better information than we have had in the past.

We need long-range planning that we haven't had before. We have to have the five year review so that, even though it is going to be adjusted on an annual basis, it would again force the government into a kind of discipline, a macro-economic kind of discipline that they have not had to show in the past. I would add too, that modified sunset and modified zero based budgeting are other forms of internal pressure to force the bureaucracy to look at itself and justify itself even to itself before they come and justify themselves to the external world, and Parliament.

All of those measures, plus more I'm sure you can think of, are going to help us reverse the onus and bring back a far more responsible Parliament and a more sensitive government. Thank you very much.

The Chairman: Ladies and gentlemen, I would be willing to accept a resolution that all Chairmen of Public Accounts Committees be better paid, if somebody wants to make that at this point.

It is now my pleasure to introduce to you our next speaker for this morning session, Mr. "E.E.E." Macdonell. You might notice on your program that he's called J.J. Macdonell, but really he will go down in history as "Mr. Effectiveness, Economy and Efficiency" Macdonell.

Mr. Macdonell was a partner in a senior accounting and management firm in Canada before he became Auditor General of Canada. Mr. Macdonell and I have been on the same rubber chicken circuit a number of times, and I've used this phrase before, but he really brought auditors out of the closet, if I may use that phrase.

He's done a great deal in Canada and the individual provinces to bring to public attention the problems that are facing administrations at the provincial and federal levels. Although he is due shortly to retire, he was fortunate enough, I think, to be in the position he holds now, at that time of the 100th anniversary of the Office of the Auditor General for Canada. He put on a splendid display last year in Ottawa which again underlined the importance of the function that the Auditor General of Canada and the provincial auditors play, and of course, incidentally, the legislatures and legislators somewhere in that process.

It gives me a great deal of pleasure, ladies and gentlemen, this morning to introduce to you a man who certainly in Canada needs no introduction, Mr. J.J. Macdonell, Auditor General of Canada.

Mr. Macdonell: Thank you very much. This morning—and I say this very sincerely—represents not only a very unique occasion for me, but I suspect perhaps the pinnacle, certainly of this Auditor General's career and I suspect any Auditor General's career, to be permitted to stand on the floor of a legislature in the presence of parliamentarians. I take it very seriously and I'm honoured to be here.

To start with, I would like to remind our chairman that I do think we gave the parliamentarians a place of honour at our centennial conference in December. The proceedings were opened by the Speaker of the House of Commons. The chairman of the number one session, the parliamentary session, was Senator Alan Macnaughton, former Speaker of the House of Commons. We had Mr. Edward du Cann, the Chairman of the Public Accounts Committee of the United Kingdom as the first speaker. The second was Ron Huntington and the third needs no introduction, obviously, in this audience and that is our Chairman this morning.

I'd like to also add that in his remarks that morning, some time before the Lambert Commission Report was published, for the first time in that particular chamber and the first time I ever heard them, were the words "ministerial responsibility is a myth". The author of those words is our chairman this morning. Whether Mr. Lambert had anybody listening or whatever, I did hear them first from Mr. Reid.

In developing the theme of my comments to you this morning, it seemed to me that perhaps we could look at the parliamentary committee that I am most familiar with, the Standing Committee on Public Accounts of the Parliament of Canada, House of Commons and look at it from three perspectives: first, from the perspective of the Auditor General; secondly—as I perceive it anyway—from the perspective of what has been happening to the Public Accounts Committee in the past five years in Ottawa; and thirdly, I'm going to do something—Mr. Chairman said that I brought auditing out of the closet; I'm very proud of that, if indeed I succeeded; I wonder if I really have. Be that as it may, I'm going to do a little forecasting or speculating. No real auditor ever speculates and certainly not in public. I'm going to use a bit of a crystal ball and say, "What is likely to happen in the Public Accounts Committee proceedings in the 31st Parliament?" A great deal has happened in the 30th Parliament. I think there's been a tremendous transformation.

I subscribe to this. Many people have said to me—and there are many parliamentarians here from Ottawa today—that the Public Accounts Committee has achieved a standing among other parliamentary committees as being an extremely effective committee. That I certainly endorse from my perspective.

Let me take a reading for you of what has happened to the office of the Auditor General in the past five years and why.

Let us start with why I can say on a first-hand basis, not what has gone on for 95 years before I arrived, although that was recorded recently in a history entitled, *Cordial But Not Cozy*. That, in turn, stems from the Wilson Committee which the chairman referred to this morning. The brief from the Canadian Institute of Chartered Accountants (CICA) suggested that this should indeed be the relationship of the Auditor General of Canada with the government of Canada; that is, cordial but not cozy.

I'd like to amplify the chairman's introduction slightly, in this respect: I did not ever expect to occupy the position of Auditor General of Canada. The manner in which the government sought a replacement for Mr. Henderson was to invite a number of leading chartered accountants of Canada and heads of a number of accounting firms, at least one of whom was the president-designate of the CICA, to form themselves into a search committee.

I was approached and I quickly and immediately disqualified myself. While I had indeed been a partner of an accounting firm for some 25 years, I had rejoined my profession for the real objective of seeing if we could do a more constructive job for our clients. I became the management consulting end of the practice.

I immediately told the person who approached me, "I would have no credibility whatever. I really haven't signed a set of accounts except a set of church accounts for 25 years. I'd be laughed out of court."

The chairman was a very persistent man. At that time it was Mr. Duncan Gordon, who needs no introduction in the city of Toronto or indeed in Canada. Duncan got a hold of me and said, "I urge you to give me a good reason why any chartered accountant approached for a position like this could in any way not allow his name to go forward." After an hour I couldn't think of a reason that satisfied Duncan so now you see the product.

That, incidentally, has a bearing on what has been going on. Having been acting in a sense as an advisor to corporate management for nearly 30 years, it was inevitable I would bring this type of thinking and background to the job. My first approach was to see if I could avoid the confrontations which my predecessor had engaged in. I'm a Canadian of Highland Scottish descent. If I'm forced into a battle, I will not run away. On the other hand, I don't normally seek battles. I don't think you really gain an awful lot.

I was very fortunate in getting Jack Wilson, who was the retired head of the Clarkson-Gordon firm in Toronto and past president of CICA, and two others to help me by setting up a committee to take a hard look at what this was all about. It had never been looked at in 100 years.

That was task number one. We'll come back to that. I've got to hurry through the history because I want to spend a little time on where I think things are going.

The next thing I discovered was that our office was engaged in what in technical terms you would essentially call "attest auditing". That's giving some credibility to financial statements. The Auditor General signs the accounts of Canada and about 80 other sets of accounts. That is the job of corporate auditors and the private sector auditors. That's quite traditional.

The other, of course, as you would well appreciate, for 100 years has been the compliance financial authority type of auditing. That is, when Parliament votes money, has indeed the money been spent for the purpose for which it was voted, and has it been spent within the authority granted by Parliament?

There had crept in during the past 20 years first under Mr. Watson Sellar, and then very directly under Mr. Henderson, a type of reporting on what was then termed "non-productive expenditures". This did not originate in Canada. Auditor General Richmond in the United Kingdom probably before the turn of the century had set leadership in this field that it was just not good enough that the expenditures be legal if they were wasted. My predecessors followed this tack. I think, as our chairman said, Mr. Henderson followed it with some vigour and produced, as might be expected, some resentment on the part of government.

To make a long story short, the reports of the Auditor General of Canada had become essentially—and to use the vernacular that all Canadians in my audience would remember—basically concentrated on the horror story approach. That has its value and I'm not going to knock it. It has a deterrent value and that is the basic reason I think it was used. The theory is that if you produce a very glaring example of a non-productive expenditure—we do test work—theoretically every other department says, "My God, there but for the grace of God it might have been my department that was pilloried."

This thing got a bit overdone, I think, really and the reports grew thicker. I asked, "What could the Public Accounts Committee do?" They could call the offending department up and say, "You really shouldn't have done that." Off they go, and that's about it. If you're going to cause those things not to happen, you've got to go a little deeper.

Essentially I made an immediate decision and that was that we should introduce system-based auditing, which in the last 25 years had become the way to do auditing. We did that.

The second decision I made was that it is not really much use to Parliament or the Public Accounts Committee to say, "This is bad." I think you should stick your neck out and say, "Not only is it a bad procedure, but it's bad for this reason: you're exposing public money to a risk of maybe \$1 million. You have no cost system, for example." That's fine. You say that and the deputy looks a bit startled and says, "Nobody ever said that before. What should we do about it?"

That, to me, is the important thing. Let's say what you should do about it. Let's stick your neck out and say right in your report to Parliament, "This is a bad procedure, this is why it's bad, and this is what we think it should be." That's not good enough either.

I think that the department head has got to have equal air time. He's got to have the chance to say, "I don't agree with the Auditor General. Sure, we can put in these controls, but it's not going to be cost-effective. It'll cost more to plug the gap than it's worth." I think he's entitled to that time. That makes a great big difference to the Public Accounts Committee. Instead of chasing down some horror story and saying, "My, you shouldn't have overexpended that vote by \$100,000. That's very bad," they say, "Department, what are you going to do about this?" Then they say to the Auditor General, "Monitor and follow up. If the department's agreed to rectify this problem, you follow up and let us know if it has been modified and corrected."

Then the Public Accounts Committee itself can follow up. In 15 minutes of a procedure and agenda (a subcommittee) meeting, the research officer or the clerk can say to the chairman, "Here are the follow up routines of departments that have said they're going to do this." The chairman and the members of the subcommittee say, "It would be a good thing to get an update on that." In a matter of 30 minutes in a subcommittee, updates start flowing in from departments.

I'll tell you what has happened. This is what I call a constructive type of auditing. Say what is wrong, what should be done about it and invite the department to respond. The Public Accounts Committee began back in 1974, when we began using this technique, to use the principle of exceptions on basic issues. I thought I would get crucified by department heads. I didn't at all. They said, "My God, Jim, instead of trundling wheelbarrows full of documents and getting 15 people from coast to coast for a hearing in case we're asked a question, now we can give a considered answer and place it on record in an orderly fashion. It saves an immense amount of time and keeps the record straight." Not only has this procedure been very constructive and helpful to the Public Accounts Committee, the departments have welcomed it. It keeps the records fully straight with absolutely minimum attention by the Public Accounts Committee.

The committee is then in a position to pick out particular issues on a selective basis and say, "This is a very important matter. Let's have a hearing. Let's get the Secretary of Treasury Board up here for a couple of meetings and see what he's going to do about this." That's really what has happened in the last five years.

I could go on in depth, but that is one important procedural change initiated by our report. We've given the Public Accounts Committee a document that is manageable now. Last year, our Centennial Report was approximately 750 pages in each language, something that you would think would choke a public accounts committee. It would if it weren't for this technique, they use the principle of exceptions. The committee uses staff, though, they don't have very many, to do this particular thing. That has turned the thing around in such a fashion that the Public Accounts Committee has a manageable agenda and they deal now essentially with major issues.

Let me take another tack at this. In 1973, within six months after I arrived, I was attempting to introduce system-based auditing. That is not an easy thing to do. You don't know how many people you need, how much money you need or what kind of resources you need. This is a different kind of auditing. It's more sophisticated. It certainly is not tick and check. You need a far higher proportion of experienced people and a lot fewer at the bottom level.

Knowing we had to do this, my question was, how do I approach it? I knew I didn't have the in-house resource capabilities. I decided we had to do a stem to gudgeon evaluation of the whole finance management process, from top to bottom and sideways, of the Government of Canada—29 departments, 27 crown corporations, spending at that time \$17 billion.

I confided this little thought one day to the Secretary of Treasury Board. It was a good thing we were sitting down and having lunch because he thought I had gone off my rocker completely. He said,

Frankly, Jim, it was a great accomplishment to get the report out on time, but you don't want to press your luck. For openers, what do you think you would use for resources?

I said,

Before we talk about the resources, Gordon, let's talk about the pinnacle of the financial management control system in the government of Canada. Who is the chief financial officer?

The Secretary of Treasury Board said,

Well, Jim, frankly you've got a lot to learn. You're doing a good job, made a good start, but you really don't know the setup here. There isn't any by that name.

I said,

Who have you got in your shop there who is a qualified accountant and what level is he at?

—I don't think you've heard of him. He's three levels down, but anyway he's there and he is a chartered accountant.

—That's good. What are the estimates this year, what are we up to?

—We may get up to \$21 billion.

—How much do you pay this fellow?

—I think he's up now to about \$26,000.

—Fantastic, fantastic, Gordon. My God, I've been working the private sector for 30 years. To spend a tenth of this money the chief financial officer would be in the range of \$50,000 to \$75,000. You people are in trouble. I thought this was your job.

—I've got a few other jobs, collective bargaining, official languages, and the allocation of resources. I've got quite a few other things.

I said, "On resources, I'm heading off to Barbados to lie on the beach for two weeks and I'll give it some thought.

When I came back I found out from John Carson, the Head of the Public Service Commission, that there was an arrangement called executive interchange.

I went down to see John and said, "I'd like to use this facility", he said, "Well, the Prime Minister himself asked us three years ago, but nobody's done much about it. How do you propose to do it?"

I said, "I want to get about 50 chartered accountants, the cream of my profession, coast to coast on loan for a couple of years."

He said, "That's a rather big approach."

To make a long story short, we got them and two years later your chairman read out the results of the financial management control study, which were pretty appalling. I was delighted to hear Mr. Peterson describe the reason. The reason is exactly what Mr. Peterson said. Grant Glassco basically said, "Let's let the managers manage." He also said, "Let's keep a few controls in the centre."

Nobody read that fine print. The whole thing got so decentralized that we had about 56 enterprises scrambling to get money, but no accountability in the financial sense, and no control system at all—nothing. I mean that.

I wrote that opinion. It took me three or four weeks to write it, but I meant exactly what I said and I was backed by some of the leading firms of chartered accountants in Canada who had loaned me some of their partners and managers. There was no question of the integrity of that opinion.

As Mr. Peterson said, the Lambert Commission was the first to respond.

Now we turn to another development—not just the Lambert Commission. That was tremendously important. I told Allan Lambert after he got started and when he was feeling a bit discouraged at the magnitude and scope of what he'd taken on with the time limit, "I venture this: everybody around Ottawa keeps talking Glassco. For 20 years they've talked Glassco. I am confident that for the next 20 years they'll be talking Lambert." Believe me, after reaching his report I am more confident than ever. Indeed they will. That's a magnificent document!

The first response to the financial management control was an appointment of the Royal Commission of Financial Management and Accountability. But in my report, following the principles that I believe in, there is no use telling Parliament things are bad. So what should be done about it? I'd been arguing for a year and a half with the top mandarins in Ottawa, that what they needed was to recognize that they need a chief financial officer of government, but nobody believed me. I can see why they didn't. None of them had ever been in a corporate environment. Therefore we were passing like ships in the night.

I respect these people. They're professionals of the highest integrity and competence. I can tell you I have not seen their match of intellectual brilliance at any time in the private sector, so I'm not just saying the private sector does everything right and the public service does everything wrong. Not at all. They just don't talk the same language.

As in any reorganization, you can't start at the bottom. You can't start at the middle. You must start at the top, and you must find a leader. That is all I said to the government.

"I recommend that you appoint a Comptroller General of Canada, that you create this position and spell out what it should do, and that you seek the best qualified, financially trained executive in the country to fill it."

The debate went on between the Honourable Robert Andras, President of Treasury Board, and myself for three or four months. This is a good opportunity for me to pay the highest possible tribute to Bob Andras. I am so proud of an elected representative, holding the senior Cabinet post, who put in the amount of time in considering this recommendation of an Auditor General. We worked alone. I can't tell you how many meetings we had until he was thoroughly conversant with what the situation was, and why I recommended what I did. The seal of Cabinet secrecy now descended, so I don't know how he persuaded his Cabinet colleagues, but he did. On April 25 he announced in the House, that the Comptroller General of Canada position would indeed be created. One year later the Prime Minister announced in the House the appointment of Harry Rogers, Vice-President of Xerox, and I've worked with him since. We're very fortunate to have a man like Rogers take this on. I pay high tribute to the former government. They took the problem seriously and they took action.

I've wandered from my notes here, but these are gut issues. I could give you a lot of other detail, but without those issues the things that Mr. Peterson talked about are not going to happen. Frankly, this would not have happened if the government hadn't taken the initiative and recognized that we had nothing in the way of a financial management control system, and would never have anything unless we took it seriously. They set up this position, equal in rank to the Secretary of Treasury Board and sought a properly qualified person to do the job. That has been done. I'll come back to what I think is going to happen because of that.

I could go into a lot of other details, but I've made my point. We have tried not only to introduce a system by this auditing approach, but also to identify major issues. I believe, the perspective of the Public Accounts Committee has changed. I think it is fair to say that if Mr. Huntington were here, I think he would endorse this.

For example, when you say, "We recommend there be a Comptroller General of Canada". We said it in *auditese, accountantese* the year before. We said there should be a new central agency, and we said the systems were below an acceptable standard. The accountants understood this was a disaster, but nobody else understood a word. So we got into plain English a year later.

In any event, when we did, the Public Accounts Committee held hearings and they invited people they'd never seen before. The Secretary of Treasury Board came to eight consecutive hearings. I don't think he'd been there for 10 years. Things were really stirred up.

We also began to attack something else—and this is absolutely vital and it took four years; this is a chance for me to tell parliamentarians what a fantastic job the Public Accounts Committee did on an issue that got no ink at all—none. It just breaks my heart. In 1974 or 1975 we basically said, "Your information system is no good. Parliament is really not getting any information that is worth anything to them. There are four chartered accountants who are members of Parliament. They themselves freely admit that the estimates are meaningless. They're even misleading. We've got to do something about this. We've got to get an integrated system from top to bottom which is meaningful, with outputs in it, where you can see what Parliament is voting. Don't just vote money. Find out what you're going to get for it, or let the system tell you—which it doesn't today. The Public Accounts are the most sterile document next to the estimates and they're almost as unintelligible or as uninteresting. They tell you nothing I've signed them. They add up on each side, I think, but they don't tell you much.

This system has got to start at the top, and work its way right down, if we're ever going to have accountability.

I gave an account of my stewardship. As the chairman said, I'm packing it in next June. Time catches up to us all. It catches up to me next year.

I braved the wrath of my fellow public servants and went to Winnipeg in the middle of August to address the Institute of Public Administration of Canada. I'll give you some of the headings as to what is wrong, "Accountability Lost". Let me pick out this one: "Financial information of Parliament: Computerized Garbage". Those are strong words, but I'd like to tell you the other part of it. "Restoring Accountability: How—" and there are three words: "Value For Money".

Anyway, I am very confident things are going to turn around. I'm confident because of what we've tried to do, working with the Public Accounts Committee, and what the Public Accounts Committee had done with the kind of information they've obtained from us. They've done really a very remarkable job.

For example, in 1976, the very year that we had to tell Parliament that they, and indeed the government had lost controls, there was a question of a very major crown corporation that had made some payments for which they couldn't give me adequate vouchers. Naturally, I reported that, and it caused a certain amount of interest, to put it mildly, particularly on the part of the press. They went all over the world trying to track down Korean payments, and Swiss bank accounts, and so on.

Then, right in the precincts of Parliament itself, in a panel sponsored by the Study of Parliament Group, a journalist started to really attack the Public Accounts Committee. He said, "Broadly speaking, thank God for the media, because we have been spending our money and our efforts all over the world tracking down these Swiss bank accounts". They actually go nowhere. The issue had nothing to do with \$20 million paid put to somebody in Korea, or \$2.5 million put somewhere in Argentina.

That wasn't the gut issue. The gut issue was that this huge corporation, spending millions and billions of our dollars, was totally out of control.

This is on the record of the Public Accounts Committee. The Chairman challenged me one day and I said, "I think perhaps the time has come in view of the fact that the head of AECL does not seem to agree with what I said, that we table the detailed report." Ninety-seven pages were read into the record. Of all the indictments of any corporation being totally out of financial control, that was it.

Did the press say anything? Nothing.

Mr. W.A. Wilson wrote a column about it, and said that is the gut issue. There is an illustration of what I'm talking about, exactly what Mr. Peterson and our chairman, Mr. Reid, said this morning. We don't back away from situations, but the real issue is systems.

I'd now like to track for you an issue that I think will turn out to be as important as the two that I've talked about. I talked about the lack of financial management control and what to do about it. The Lambert Commission and a Comptroller General: those are very important things.

I've also touched lightly on the information system. I can't tell you how terribly important that is. Without that, nothing that Mr. Peterson or Mr. Lambert has talked about is really going to happen. You've got to have that. It's well in train now. It's going to take four years, but it'll happen.

Let me turn to a final point. When I got to Ottawa, fresh from the private sector, it seemed to me that Henderson and Watson Sellers were absolutely right. It really doesn't matter if the Public Accounts of Canada are out of balance by \$100 million. Nobody's going to read them. You state that and the price of a Dominion of Canada bond is not going to alter by 10 cents.

What does matter is that parliamentarians have the means of finding out if we got any value for that money. That, to me, is the gut issue here. Thank God, Mr. Wilson and his fellow commissioners—Marcel Bélanger became Canadian Institute of Chartered Accountants president two years later; Ron Campbell of Winnipeg, who just retired as president of the Bar Association—they saw it that way. They said in their

report: "The time has come that the scope of the Auditor General of Canada has to change. He has to have an involvement in telling Parliament whether or not, in his judgement, there are systems in place that enable Parliament to be informed as to whether value has been received for money spent in terms of economy and efficiency."

Thank God, they didn't tell the Auditor General to go and do it because that would put me in this Chamber. It would put me on the opposition side of this Chamber, and would destroy the office of the Auditor-General if it got into program effectiveness evaluation. But systems are different.

The Auditor certainly should be invited to see whether there are procedures to evaluate program effectiveness, to determine when there should be such procedures, and whether they are working, and whether a report is being made, including one to Parliament.

Two years of debate ensued on those three words: value for money. The top officials said, "Wilson reported a monumental thing. Tremendous. We'll give you all the independence you like. We'll back off on the classification that Henderson fought so hard for. No problem. You can do your own staffing and recruiting. What else would you like? Everything that Wilson said, we'll give you; but not value for money. No blasted way. This would be impossible. You understand that, of course."

I said, "No, as a matter of fact, I don't understand that."

About two years later, we got value for money.

I may as well make a confession. As the chairman said, I've had a great run at this job, and I'll be playing golf next summer. I hope my successor will be having a good run at it. But in the end, someday you have to face these issues.

We'd been debating this a long time. Jack Wilson, unfortunately, died that year so he never did live to see his great report translated into legislative action, but Jack was by my side.

I decided: "I'm going to do it. I'm going to do this kind of auditing. Two presidents of the Canadian Institute of Chartered Accountants and a president of the Canadian Bar Association say this is a good thing to do, and with or without legislation—my predecessors have been doing it since Auditor General Richmond back about 90 years ago—I'm going to do it. I guess the question is whether you tell me it would be a good thing to do, or I do it and you tell the taxpayers that you're going to stop me. Take your choice." This is at the official level. I'm very respectful to elected representatives. I would never tell an elected representative that, but I have no mercy at all for officials on the same level as myself. We have friendly debates galore.

They said, "You wouldn't dare." I said, "Watch me."

We got our Act, thank God, in 1977, and it is changing things forever, and not just the Office of the Auditor General. It is going to change the perspective of Parliament and what MPs expect from the government, and it will change what the government expects from its public servants.

Value for money is now being built in. The Comptroller General of Canada has a program called "Impact". He's taken the biggest 20 departments of government, which spend 80 per cent of the \$50 billion total—\$40 billion. He's taking inventory as to what has to be done to get good information for the department managers. They can't run their departments with the kind of information they have now, and let it flow to Parliament. I am extremely interested in the entire flow, but particularly what goes to Parliament. That's in hand now.

We saw Proposition 13 in California. My belief is this: in a very quiet way, an extremely quiet, Canadian way, we are going to change with respect to value for money. I'm not foolish enough, I hope, to think that value for money is the only thing in a government. We don't elect governments to run them like corporations. That's not at all what we expect. We expect social programs and we expect the government to say, "This is not the cheapest way to do it, but it's the best way to do it," even if it costs twice as much, because it's in an area of high unemployment. That's acceptable. Legislators can only make those decisions

with good information. You can still spend twice as much money and spend it economically and efficiently. There is a big difference between waste and extravagance.

Let me close these remarks by repeating what I said in my 1978 report to Parliament. In doing what we call the study of procedures in cost effectiveness, the "SPICE" job, I used the same technique I started with in 1974. Forty per cent of our budget is being spent on executive interchange people or short-term contracts. That way you can get a magnificent array of expertise that you could never afford on a permanent basis. I don't believe in building a big bureaucracy.

We're operating with about the same number of professionals, maybe about 20 per cent more than Henderson had when he retired. Believe me, we're spending a heck of a lot more money and we're getting good value for it. As Rogers begins to take over we'll get the kind of internal auditing which is pre-auditing not the post stuff we're doing. As the chairman said, you can only do post-auditing and say, "You shouldn't have done it that way." But when you get comprehensive auditing internally, it's going to be a new world.

Why did I defend public servants in my report last year? I said what we had to say, which is pretty shocking, that many millions of dollars have been spent with no evidence at all of any regard at all for economy or efficiency. We could only find two programs that had been evaluated in a satisfactory manner, and hundreds of programs in which no effort whatever had been made. That was a pretty shocking indictment.

But I also said we must not blame the public servants, the managers. Glassco said, "Let the managers manage", and Lambert basically said, "Make the managers manage" I said in my report last December. "Help the managers to manage."

We've got some brilliant public servants, but they know nothing about general management. That is not their bag. They're policy people, and thank God they are. I'm delighted they are. But these are our resources. We own these crown corporations. We own Air Canada. We own Canadian National. These are not things in outer space. We own them. This must be looked at. These are ours, and our legislators have got to have the information and our public servants have got to have the training, in my judgment, to allow them to do that. I said the public servants have had an unclear mandate, inadequate training, and they have lacked the tools to do the job.

Let me close my remarks by explaining myself. "Unclear mandate"—I have never and never will hear what a Prime Minister says when he speaks to a new deputy minister or a new deputy head who's just received his Order in Council appointment. But I speculate and I've talked to some pretty senior public servants in Ottawa. None of them have ever been told, "You will discharge these responsibilities with due regard for economy, efficiency and effectiveness." They have been told, "You will watch the funds and see that they're spent with probity and prudence. You will give good policy advice to your minister. You will cause programs to be brought in on time and expeditiously," but these three words have not been part of the mandate.

This is not going to happen because an Auditor General says it would be a good idea. It won't even happen because dedicated public servants think it would be a good idea. It's got to start from the top. It's got to start from Parliament. We start there.

It also starts from the cabinet. The cabinet has got to give the leadership on this thing. They've got to say, "Public servants, this is part of your mandate." That has not yet been done, frankly, and I suggest that until it's done I think we're wandering on.

These are radical remarks to parliamentarians, but as I say, I might get impeached between now and next June. You never know. In any event, we'll see what happens.

Secondly, "inadequate training". Public servants are not basically trained to be managers. That is not part of their training. They're trained to be good advisors, to run good shops, but they're not trained in economy, efficiency and the things that everybody in the private sector knows instinctively—because if you run a corporation badly it goes bankrupt. There's quite a penalty. If you run it well, I won't go into all the little perks that executives get, but we know they do pretty well. It's a reward system.

For the individual, if you do a bad job you get fired and you probably have difficulty getting another job. There's no such thing in the public service at all. I think we underpay our managers. If we want to get crass about it, I think we're underpaying some of the key people running the biggest departments in Ottawa spending billions of dollars. You find out through the public press that the president of Canadian Pacific Railroad is dragging down \$400,000 a year. I think he's worth it, but everyone seemed to be coming on him. There are three or four departments in Ottawa that you could tuck the CP empire into. I don't say we start changing the salary levels. This sounds heretical, but I think we're not giving rewards. And we're not giving penalties—it's a two-way street.

Finally, there's an area Mr. Peterson did not touch on, and I don't blame him. It doesn't affect Parliament. It certainly affects general management. This is controversial. Mr. Gallant will not like what I'm going to say.

There's a resource in every government that is a lot more important to you and to all of us—I'm a taxpayer too. This is the human resource. The government cannot be accountable the way the shop is run right now. The Public Service Commission is in a dichotomy situation. It's like if I tried to be Comptroller General reporting to the government and the Auditor General reporting to Parliament. I couldn't do it. Nobody could do it, in my opinion, and do it justice.

The Public Service Commission has been going a long time but we have collective bargaining. I think the government has got to manage the human resources. They're not managing them today. I think they've got to start at the top and that's the fourth tool. Managers at this point certainly have poor information. They don't have comptrollers of the real type. They have bookkeepers, accountants and computers. They don't have comptrollers. I think any policy deputy minister can run a department but he's got to have a manager with him. But comptrollers basically aren't trained to be managers. He has no evaluation system worth a damn.

I've argued that we must have comprehensive internal auditing of the type I've outlined. Value for money is part of it. Finally, the manager must be accountable for his human resources.

I think I'm three minutes over, Mr. Chairman. I'm going to sit down. Thank you very much.

The Chairman: Thank you, Mr. Macdonell. I would recommend to any of you who have further interest in this topic you could do no better than to get the proceedings of the 100th anniversary of the Auditor General, which took place in Ottawa last year. I think it would be very helpful as background information to this new approach in Canada, and in Ontario.

I think you'd agree with me that as far as Mr. Macdonell is concerned, the Canadian public is getting value for money.

Mr. Macdonell and Mr. Peterson will now accept questions.

Mr. Cherniak: My name is Cherniak. I'm from Manitoba, and I have some questions to ask of Mr. Macdonell. I'd first like to say that I found it most interesting to read about him and his predecessors in a book from a long-time friend of mine, Sonia Sinclair. It was called, I think, *Cordial But not Cozy*, a phrase used by him.

From certain things he told us, it sounds like what she said was correct. I suppose he dictated much of it to her. The one thing that she helped me understand was that effectiveness meant to him proper evaluation of procedures within government, rather than assuming unto himself the conceit of feeling that he could measure effectiveness. I'm not quite satisfied that I understand just how he would define the criteria he would expect of government in judging the effectiveness of certain programs of a social nature, which you cannot measure by a profit sheet or by dollar net balance.

An example might be the hot lunches at school program. How would he expect to see the criteria established for judging the effectiveness of that program? In Manitoba, we have a property tax credit plan related to income and property taxes, designed to assist people with lower incomes. What criteria would he expect? Cost, I understand. Economy and efficiency, I understand; but not the criteria for effectiveness, the

value for money concept. I wish he could elaborate to explain to those of us who are anxious to know, how we can accomplish that and how he sees it.

One other matter, is that because of the constraints of time I think Mr. Macdonell went a little too quickly for me to understand what he was saying about the controversial proposal which sounded like he wanted to step in and start attacking the tenure of long-standing civil servants. Would he care to take advantage of the extra minutes to which he becomes entitled in answering, to elaborate for us what he was talking about in the last couple of sentences when he concluded?

Mr. Macdonell: Let me take the second question first, if I may. I kept looking at the clock and realized that my time was running out.

The controversial issue does have a very direct relationship to accountability. It does have a direct relationship to the accountability of a public servant for managing resources economically, efficiently and having the tools at his disposal to evaluate effectiveness. That has to do with general management. I therefore basically endorsed the recommendations of the Lambert Commission that indeed there should be a divorce of the two parts and two responsibilities of the Public Service Commission.

One is the responsibility to Parliament, essentially, for upholding the merit principle. I strongly endorse that. The other part of the Public Service Commission's responsibility is staffing. Basically I said that I could not be also the Comptroller General of Canada. As such, I would be accountable to the government for causing good financial management control systems to exist, but I couldn't also audit those systems.

Therefore, it is controversial.

Mr. D'Avignon and his committee this week basically endorsed the recommendation of the Lambert Commission. In my job, I try not to get into controversies but this is so fundamental. To hold public servants accountable for managing public funds and physical resources they must also surely have the prime responsibility for managing human resources too. That is really not the situation. You can delegate authority, but delegating it is not the same thing as having it. If you're going to be responsible for something, you must have the authority, the responsibility, and the accountability. That was the controversial issue that I put myself on record as supporting.

It ties in, I think, with what I was trying to talk about, that economy, efficiency and effectiveness are vital now. We have come to the stage in the growth of government expenditures that we, the taxpayers, have to have reasonable assurance that economy and efficiency are being observed. My report last year, 1978, produced case after case where that was indeed not the case.

Let me turn to program effectiveness. There is a very great difference—and you, of course, have identified exactly what it is. I said I was happy that I had not been charged in the new legislation with the responsibility for evaluating program effectiveness. There are many reasons for that.

For one, it is a state-of-the-art situation. The illustration you gave, hot lunches for school children, the LIP program, for example, at the federal level—how do you evaluate those? I accept it's difficult. Take LIP, which is reported on in my report last year. We looked at LIP and the procedures that were put into force to try to evaluate it. We applauded the fact that it was attempted. We also criticized the technique. The modalities were wrong. They could have been improved. That didn't mean that the deputy had to cause that to be done, and the minister who had it done should not be applauded for attempting it. I concede completely that you cannot evaluate some social programs in their entirety. But we did not find literally one single program in Ottawa—and we put a lot of effort into this—some section of which was not capable of evaluation. There's a difference. Therefore, our objective was to determine, where the programs or parts of them, can be evaluated whether an evaluation is being attempted? The fact was that they weren't being attempted.

I cannot go into it in depth here this morning. But I'd be happy to send you a copy, or I'm sure that Bill Ziprick would have a copy right in Winnipeg and could highlight the section that we reported on. I'd be

delighted to give you more information, because I can assure you that, Mr. Rogers' report on impact will do that, and last year the government in the Throne speech said it was its intention in due time to place on record in Parliament the results of program effectiveness evaluation. Now that's a magnificent statement.

I can see the state-of-the-art in many places. I'll give you my counterpart in the United States. I am startled when I read that the General Accounting Office, which is my counterpart, is evaluating the effectiveness of nuclear submarines in the Arctic, should they be spending money on them, and how are they strategic? I think this is literally what is happening. What about the strategic defence plans in Europe? I, frankly, am struck that any parliamentary auditor or congressional auditor would have the expertise to come out and say those things.

But Mr. Staats works much more directly for Congress. He's under a different mandate. He's investigative with his mandate. He goes out and investigates things at the behest of Congress or a committee of Congress. It's a project-oriented approach. They're doing a great deal of state-of-the-art program effectiveness evaluation in the United States. I can give you dozens of the titles which would shock you as they shock me. I don't want the kind of resources to attempt that. I think that's the job of the Official Opposition in our Legislatures.

The Chairman: The gentleman over here had a question.

Mr. Andrew: My name is Robert Andrew from Saskatchewan. My question is to Mr. Peterson or to Mr. Reid. In the province of Ontario, is there a system of public accounts or control of the crown corporations, distinct from public accounts, or are they handled through public accounts?

Mr. Reid: That of course is covered in our act, and the Public Accounts Committee has the authority to investigate virtually every dollar that is provided by the Ontario government. The Public Accounts Committee, therefore, has the authority to call any crown corporation before it or any agency, board or commission of the provincial government, and we have done so.

The second volume of the Public Accounts, deals with crown corporations also, and are automatically now referred to the Public Accounts Committee. That gives us the authority to look into crown corporations.

I think it's very important, although you may not always have the time to go through each of them, that on some kind of rotation basis they be looked at in some detail. It's one of those things in life, just knowing that somebody, (the Public Accounts Committee) is there and can look at it, that in itself has a salutary effect when people know that a situation should be cleaned up or certain procedures taken to ensure value for money in that kind of organization as well as in direct ministries of government.

Mr. Cunningham: George Cunningham, House of Commons, United Kingdom. May I just volunteer two comments before coming to my question. I was interested that Mr. Peterson referred to a desire to hold civil servants to account rather than ministers. I'm a bit puzzled at that. It has been the practice throughout the Public Accounts Committee of the United Kingdom that it was the so-called accounting officer—that is, the senior civil servant of the department, your deputy minister—who was held to account by the Public Accounts Committee. We have more recently pushed down the level of the accounting officers. In large departments, you may have two or three accounting officers, each of them at a second or even a third tier of civil service rank, being directly accountable to the Public Accounts Committee, rather than what we call the permanent secretary and what you call the deputy minister.

But if you are going to call to account civil servants below the formal accounting officer, then I think you are going to have that middle-rank civil servant thinking constantly about what trouble he's going to be getting into with the House of Commons at the time he's receiving his instructions from his bosses in the department. If the House is going to hold him directly answerable for what he does, it is going to do something to the discipline structure and the chain of command within the department itself.

The second comment is that in Britain we are now moving over to a new system of subject committees which will not take over the accountant/audit function, but which will, we hope, look at future expenditure. Since those committees are not only going to be doing the expenditure job but also, we hope, general

studies, some of us feel they will have to run on two tracks at the same time. They will have to have meetings on Tuesdays, let us say, and meetings on Thursdays. On the Tuesday session they will do their detailed accounting, their running scrutiny of expenditure, and on Thursdays they will do an ongoing but in-depth study of some particular subject they have picked up. It seems to me if you are going to combine those two functions—and I know that's not commonly done in Canada—then you have to have two tracks; otherwise one of the jobs is going to fall by the wayside.

In Britain we certainly have not found a solution to the problem of how to express the expenditure proposals to full Parliament in such a manner that there are manageable decisions with units which can be second-guessed by the Parliament. The estimates in our tradition, despite the very modest changes that have been made in their form recently, are still unmanageable for decision-taking purposes. They are the annual branches of expenditure belonging to programs and projects which are of a multi-annual nature. Therefore they are not grippable for control purposes.

On the other hand is our so-called white paper—which, of course, given British perversity, is actually blue. Our white paper bluebook control and the documents that go before Parliament are in such general terms that again you can't really grip them. I wonder whether in the Canadian experience you have found ways of putting the mini-programs and even the major projects within programs before parliament but not on a purely annual basis—in such a manner that one can pick out these items and really second-guess the government's decision-making process which led to such a mini-program or project being adopted in the first place?

The Chairman: Mr. Peterson, you may have that one.

Mr. Peterson: The answer is we have found no answer. The division line between accounting and responsible management and policy is almost an impossible one to figure out, and we are constantly groping with it.

Let me respond to your first comment. I'm not sure it's a bad thing that a civil servant feels he's going to be responsible to Parliament at any given time. On the other hand, Parliament has to be sensitive about who is actually in authority, about who actually made the decision, and who actually delegated the responsibility to whatever civil servant. It is my view, however, that it would probably improve the sensitivity in the bureaucracy if they felt they could be held accountable and subject to public scrutiny as long as their individual rights are protected and they have their day in court and an opportunity to respond.

This whole process is in constant conflict. It's an evolving resolution-of-conflict process with no very precise boundaries. It goes back to my original thesis that there isn't any specific way to solve the problems you have talked about.

The government still has to have the responsibility to govern. It is ultimately accountable and we can't remove that. It's only a question of bringing pressure to bear with all the devices that we have, with our quiverful of arrows and all the possibilities that we can possibly summon, to move them in a direction we in opposition or on the government backbenches feel they should.

I am not too frustrated about the imposition of those boundaries, about the overlap between the accounting function and the policy function because I don't think there is any way it can be resolved. I also think it is part of the ongoing process we are all involved with in estimates.

The Chairman: I think we are all faced with two problems: the quality of the information we are getting and the methodology of how we use that information—how our committees actually function. My recommendation is that the Estimates Committee deals only with five or six estimates a year. Instead of trying to cover the whole gamut of billions of dollars worth of expenditures, it would key in on five or six or seven ministries this year, another seven next year and another seven the next year. Then in a three- or four-year cycle, which is what most of our parliaments last, we can cover all of the ministries in some detail rather than spreading ourselves as thin as we do now, trying to account for everything. You could modify that by allowing the Opposition to choose one or two ministries other than the four in the cycle if they think there is something wrong in one particular ministry.

Rather than trying to cover the whole spectrum in the time frame available and with limited information, if you concentrated on half a dozen with full information you would be doing a lot better job. In a three- and four-year cycle you would be able to go in depth into everything.

Mr. Leefe: John Leefe, Nova Scotia. I would like to refer to something Mr. Peterson had to say. I find that I'm rather uncomfortable with the concept of ministerial responsibility he seemed to put forward. It has always been my belief that there must be an ultimate responsibility in terms of government and that in a democracy that responsibility must lie with those who usually are elected and who are invited to form the executive of government. To allow for a devolving of responsibility seems to be one thing; to allow for a diffusion of responsibility seems to me to be something altogether different. It seemed to me that what Mr. Peterson was suggesting falls into the latter category.

A devolving responsibility is a proper vehicle for effective government control inasmuch as it allows senior civil servants the authority to perform the mandate extended to them by government.

A diffusion of responsibility, it seems to me, is quite improper. In reality it must make more people less responsible than the traditionally acceptable concept of ministerial responsibility which makes lesser people—and there I mean no pun—more responsible. Ministers surely do have the capacity to ensure reasonable efficiency in their departments for they have the capacity to sack departmental personnel who are acting inefficiently. The question must be: does the minister have the courage to move in that direction if it is deemed desirable?

If we move away from ministerial responsibility as it is traditionally practiced in our system, or at least as I have been led to believe it has been traditionally practiced in our system, we surely move away from responsible government, not closer to it. Surely that is too great a price to pay for an efficiency which one suspects might be somewhat more visible in theory than in practice.

I would invite Mr. Peterson either to allay my fears if I have misunderstood what he has said or to change my mind.

Mr. Peterson: You did understand what I said. I think I understand what you said and I think you raise a very fundamental point that is at the core of this issue. I happen to disagree with you and I think Mr. Macdonnell disagrees with you and I think Mr. Lambert disagrees with you. I shouldn't be putting words in his mouth. He is old enough to respond on his own. But let me say this. It is not reasonable in this modern complicated world with bureaucracies of 10,000 or 20,000 or 30,000 or 40,000 people to expect that one minister, who probably has not been trained in management, who probably has no particular management bias, can keep on top of all the things going on in his ministry.

By and large deputies are trained with more management orientation than ministers are. It is a fact that the whole governmental process is screwy to start. Here we appoint a minister for whatever considerations, because he was a good party worker or he comes from the right area or for geographical reasons. Then the chief minister doesn't particularly trust him so he appoints the second in command, he appoints the deputy to run it so you don't necessarily have a fit of those two personalities. They don't necessarily get along at the same time. How would you like to be chairman of the board of a company with a president you didn't like or didn't respect and at the same time pay some guy sitting across your boardroom roughly what you are making to criticize every single move that you make and be a part of all the action? It is a fundamentally unworkable system.

The real responsibility rests with the deputy and his appointees. I think that goes back to Mr. Macdonnell's point, Mr. Lambert's point and my point that it is a myth that the minister is responsible or in fact should be held responsible. I guess that is a critical question. He isn't responsible. We pretend that he is responsible.

Back to your point about civil servants, the reality is that civil servants are not fired. If they did not have security of tenure, if they did not have collective bargaining, if they did not have the strong unions that they have today, your point would stand. But the reality is I think there were something like 400 civil

servants dismissed last year out of 300,000 federal civil servants, an extremely small percentage. They have to be dismissed on very serious grounds.

We have a procedure in Ontario where we "red circle" them. We do what is known in the trade as a lateral arabesque; we move them sideways, we find something for them where they won't cause a lot of trouble and hopefully they don't embarrass the government or themselves. But there is virtually no way of demoting them. Those are the realities of the system. I would respectfully say that for real accountability a new system has to recognize it as it really functions and put the responsibility where it really is.

The Chairman: There is a phrase that I did not coin but I use: that government is the only place where heads roll uphill. Now Doctor Foster.

Dr. Foster: Thank you very much Mr. Chairman. Maurice Foster from the Ottawa Branch. I want to say how effective I think Mr. Macdonnel has been. I know we used to get more sensational headlines with the former Auditor General—I was in the government caucus at that time. The old-timers used to console themselves by saying, "This comes up every year, it's a one day wonder, and don't really get upset about defending it". I think the kind of report that Mr. Macdonell has been able to make has had much more effect on government, especially government backbenchers, because his credibility is very high.

For instance, when he reported that the government was on the verge of losing control of government expenditures, that's a story that kept going on day after day after day. I'm sure it was of much more concern to the executive than the one day wonders of simple horror stories. I think we've really made a lot of progress in the Public Accounts Committee in Ottawa.

I recall there was a lot of opposition to the suggestion about the Comptroller General. I think initially it was mainly from the deputy ministers but with the executive as well. It found so much support from all sides of the House that it was soon adopted.

In this discussion about who is responsible, whether it's the deputy minister or the minister, I feel that ultimately the minister must be politically responsible. Obviously, having the deputy minister have responsibility as well is probably good, but I think in our system that, politically, the minister always has to be ultimately responsible.

I recall, when I was a parliamentary secretary, the estimates as they were planned in the department. They planned the main estimates and that was a horrendous figure, but then they would have another batch of supplements and then another batch of supplements B, and so on, so the first estimates weren't quite so painful. I don't know whether that procedure is still followed or not, but it always seemed to me a bit deceptive. Instead of having government expenditures of \$45 billion you only came out with \$39.8 billion, or something, on the main estimates.

I was interested in your suggestion that there would be more information provided to the Estimates Committee. I think like Pat Reid that we're better off to concentrate on one set of estimates or another. In Ottawa we had a mechanism by which we could bring the estimates into the House for a day on a motion of want of confidence. I think that's a very effective way, because estimates committees don't get much attention otherwise. If you bring them into the House and have the full glare of television coverage, I think it's more effective.

I would like, Mr. Macdonell, for you to clarify this evaluation of value for money spent. Will that be done by the Comptroller General or by you, and who will review it? Will it be reviewed by the Public Accounts Committee or by an estimates committee where they could say, "Your value for money on the Canada Works program was lousy this year. Have we any right to believe it is going to be any better next year?"

Mr. Macdonell: Mr. Chairman, the reason I stressed information so much in every single report from 1975 to 1978 inclusive, particularly in relation to the form of the estimates themselves and public accounts, was this: harking back to the question asked by the gentleman from Nova Scotia, I subscribe to what Mr. Peterson said, and indeed what you said, Mr. Foster, and that is that the minister absolutely has to be

responsible for the policy side. You call it the political side, but I certainly do feel that the time has arrived when there is no disgrace for a minister not to be able to answer questions about management and administration. I think there is a clear line of demarcation.

To speak to your direct question on the estimates, I would like to mention the case history of how the estimates were finally dealt with by the Public Accounts Committee last spring. It was an incredible performance by a totally non-partisan committee on an issue I felt was one of the greatest issues I have developed in four years, but nothing happened. The Treasury Board just wouldn't do anything because I was treading on very dangerous ground. They have a proprietary interest in the estimates. They want flexibility. They certainly don't want accountability and I don't blame them. If I was the Secretary of the Treasury Board, I'd fight too. I'd fight tooth and nail and believe me they did. This is the dream of the future. We saw it happen in ten hearings of the Public Accounts Committee to force the government to take this accounting system, this accountability system right from the time money is voted by Parliament on the basis of the estimates, right down to the final accounting of the Public Accounts Committee of the department, in terms of output. What did we get for the money? How many ice-breakers did we build? How many widgets did we produce and what was our target? It was to put some life into these things.

We have demonstrated this. Frankly, it was a miracle because members of the Public Accounts Committee from both sides kept thinking my demonstration projects were real life. We had departmental people there for this demonstration and we saw members of the government's side, members of the opposition, yielding time, asking about this particular thing. That's what we are dreaming about. That's what the Comptroller General is trying to develop. In the long run, program evaluation is the responsibility of the department. I think there is a tremendous desire on the part of departments to provide meaningful live reports to back-up their estimates. They would be proud to do so.

It would show what do they want the money for, and put some life into this thing. I think they would be equally happy to come back a year later and say this is what we spent the money on. What we have is this computerized thing, and it's impossible for anybody to use it.

There is a tremendous goodwill. Program evaluation is the department's job. Rogers is the coordinator. He's not a czar, he's helping them to get this thinking through. That is what we are hoping will happen during the 31st Parliament, in due time.

Members of Parliament and Legislative Assemblies will have information that is meaningful, presented by the departments, through the ministers. That is a chance to question the minister on the policy at the public accounts end of the pipeline. It's a chance to ask what happened, and what did you get for the money? I hope that has answered Mr. Foster's question, Mr. Chairman.

Hon. John Brockelbank: John Brockelbank, Saskatchewan. Mr. Chairman, unaccustomed as I am to making speeches, I do want to make a very brief comment and ask a question. I will ask the question first so the response can be pondered while I am making the brief statement.

Mr. Peterson used the term economic impact study. Whenever I hear the phrase, economic impact study, I am always mystified about what the person means.

To me if an economic impact study is to be meaningful it has to examine every practical avenue. Not only does it have to do that, but it has to examine it into the future, because it is a program which is being initiated. Therefore, it becomes rather iffy, as you get further into the future, about the economic impact study. I would like Mr. Peterson to be more precise with regard to using that statement, because it concerns me.

With regard to a comment made by Mr. Macdonell, I was very pleased to recognize he recognizes that thin important line between the minister and the deputy minister, with the minister in charge of policy and responsible in that area, and the deputy minister in charge of administration and responsible in that area.

The purpose of the Auditor General is to audit the administrative side. Mr. Macdonell reiterated that now and previously in his remarks, and to that I say; "Amen". It shall be ever thus.

We have auditors on the other side who audit the politicians, and it happens every four years or oftener. Sometimes people will complain the audit wasn't complete, but the fact of the matter is that audit is taken every four years and that's the way our system operates.

The Chairman: I am going to exercise my prerogative as Chairman, both because we are running short of time but mostly because this is my 12th anniversary in the Legislature, and just once, I would like to say to the Speaker: "Please sit down and be quiet."

Thank you very much.

Mr. Peterson: I think you answered part of the question yourself, John, on the economic impact study. Let me give you a specific example of how I see it working.

Legislation comes into the Ontario House to ban non-returnable cans, a noble and worthwhile project perhaps. The government would have to file a study, a compendium of information with the presentation of that bill which would say what it would do to the local steel industry, what it would do to Canadian industry, the balance of payments, to employment, to the glass industry and everything else, and present projections of what that bill will do with that piece of legislation.

First, it would dramatically increase the quality of debate. We could look far further into the future, I assume, and not only that, a year from now we would be able to look back at their projections and say, "Did that in fact take place?" If you build in with some kind of legislation an automatic review process, a quasi-sunset process, then you can go back and make sure you haven't made a mistake a year or two later. Yes, circumstances change. Yes, the premises will change. As long as the premises on that kind of a study are clearly stated, one can make reasonable judgements about them.

I thing it's a discipline. So often we have gotten into trouble. One of the reasons we're in the financial trouble we're in today is because so often these openended programs were not carefully thought out. The whole pension question, for example, has the capability of bankrupting this country, or at least putting the major strains on the economic health of this country right now. It was so poorly thought out in terms of its long run fiscal impact that had that discipline been imposed there I suggest to you we probably would have been a lot more informed to date and a lot more intelligent conceiving of those plans.

Hon. John Brockelbank: What about the school lunch program that was sponsored by the government? Would you do an economic impact on that?

Mr. Peterson: Not if I couldn't. If I could, I would. I would have to think of that specifically, but I may not be able to.

Mr. Comtois: My question is to Mr. Macdonell. You said in your introductory remarks that you believed that top civil servants, the managers of departments and agencies or programs, were, according to you, underpaid compared to the private sector, but you said also that their security of employment was sometimes the reason why they were not so efficient. Would you be prepared to recommend that they be better paid but at the same time lose their security of employment and thus be more efficient?

Mr. Macdonell: Normally I'm quite prepared to tackle most questions. That one scares me.

I think there is a lot of precedent for good management, including good unions. I feel that the managerial category, which in Ottawa is called the S.X. group, has a particular responsibility for providing leadership. Therefore, I guess what I am really saying is that I think that if we are going to hold them accountable for good management then let's give them both the rewards and the penalties. I don't think we can have it either way.

Mr. Baah: Mr. Chairman, mine is not a question. I was going to make a comment, but since you are disallowing comment...

The Chairman: Yours is the last, so go ahead.

Mr. Baah: I tend to agree with Mr. Peterson when he says it is quite a sham. It is true that the ministers should take responsibility, but in reality in most places, certainly in our place, it is the civil servants who handle the moneys which are voted, the funds which are voted. If you really are going to keep track of these funds you are not really getting too far if you confine yourself to the minister.

You would have to go down the line and get hold of those who are actually handling and disposing of the moneys if you want to hold them accountable.

Another thing is that we have a civil service which has 10 years of office, security of office absolutely. The only people in the country who have no tenure of office are the politicians.

So I would tend to agree with Mr. Peterson that if you really are going to hold people responsible you must go to those who are actually involved in it. I think in this case it certainly would be the civil servants.

The Chairman: Thank you Mr. Baah. I am certainly glad that our presentation this morning had caused some interest and controversy. I would like to thank on your behalf, Mr. Peterson and Mr. Macdonell, and for your interest yourselves here this morning.

The session adjourned at 12:10 p.m.

18-10-79

FIFTH CANADIAN REGIONAL SEMINAR:CPA

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THURSDAY, OCTOBER 18, 1979 - MORNING SESSION

Chairman:

Hon. Harvey W. SCHROEDER, M.L.A.,
Speaker of the Legislative Assembly
of British Columbia

Subject:

Possible Reforms of the Committees of the Parliament of Canada

Main presentation:

Mr. Benno FRIESEN, M.P.,
House of Commons, Ottawa

Participants:

Mr. Robert ANDREW, M.L.A.,
Legislative Assembly
of Saskatchewan

Hon. John E. BROCKELBANK, M.L.A.,
Speaker of Legislative Assembly
of Saskatchewan

Mr. Joseph-Roland COMTOIS, M.P.,
House of Commons, Ottawa

Mr. Peter DOBELL, Director,
Parliamentary Centre for Foreign
Affairs and Foreign Trade, Ottawa

Mr. John HOLTBY
First Clerk Assistant,
Legislative Assembly of Ontario

Dr. Walter KRAVITZ
Senior Specialist,
Congressional Research Service,
Library of Congress, U.S.A.

Dr. Mark MacGUIGAN, M.P.,
House of Commons, Ottawa

Thursday, October 18, 1979

Morning Session

—Summary—

Possible Reforms of the Committees of the Parliament of Canada

Mr. Friesen opened his remarks with reflections on his experience as a new Member coming to grips with Parliament and with its committees. He mentioned in particular the futility of back-bench participation in the estimates process and the pernicious effects of the substitution rule.

In terms of relations between Parliament and the Cabinet, Mr. Friesen argued that governments must be permitted to fulfill their mandates, but should not dominate the "minds and decisions" of the Members. It is imperative, in Mr. Friesen's view, that the substantial reforms necessary to bring about the balance be brought in when a government is new and idealistic.

Mr. Friesen proposed a number of specific changes to improve the operation of committees and to enhance their effectiveness in the governing process. He suggested that the size of committees be reduced and that more effective use be made of sub-committees, and that a reserve list of Members be developed as a compromise solution to the substitution problem. Committees should also be empowered to look intensively into the annual reports of all government departments, agencies and boards. His final recommendations were for specialized committees to undertake a "watchdog" or "oversight" function with respect to policy administration, and for a committee to hold hearings prior to the introduction of the budget.

Questions were put to Mr. Friesen on the problem of substitution, the 10 minute rule for questioning, television coverage of committees, the role of the Chairman and the difficulty of motivating Members to undertake oversight of the government.

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
THURSDAY, OCTOBER 18, 1979**

The Seminar met at 9:45 a.m. in Room 151.

Mr. Holtby: The Chairman for this morning's session is Mr. Speaker Harvey Schroeder of British Columbia. Speaker Schroeder was first elected to the British Columbia Legislature in 1972. He was appointed Deputy Speaker in 1976, and was appointed Speaker in 1978. He is an active participant in the affairs of this Association, and I call on him to take the Chair to preside at this morning's session.

The Chairman: Thank you. Good morning. I am delighted to have been invited to chair this particular session. We have a very keen interest in parliamentary reforms, particularly as they affect committees in British Columbia. We have in British Columbia a statute which is simply called, "The Legislative Procedure and Practices Inquiries Act". We have a commissioner, who is appointed under that act. This commissioner has been working constantly since his first appointment, and has had several of his recommendations already presented to the House in British Columbia. His last piece of work has to do with committees, and the summary of his report has been duplicated for you, and is in the coffee room on the table, and should any of you be interested in it, please feel to take your copy home with you.

Our guest today is Mr. Benno Friesen. Mr. Friesen is a fellow British Columbian, transplanted from Saskatchewan, as was I.

He was elected for the first time to the House of Commons in 1974, and I said as we walked over to this session this morning, it seemed to me that he had been there much longer. He moved into the Chamber and began to make his presence felt immediately. Sometimes we wait for elected representatives to find the temperature of the water and then make their presence felt. But he started immediately, and perhaps that is why we out in the West felt that he had been in the House much longer than he had.

He has been designated by the Prime Minister to represent the feelings of their caucus touching parliamentary reform. I trust that his remarks today, will not only speak generally to that, but also touch specifically on that section to which we are keenly interested, and that is committees of Parliament. Ladies and gentlemen, I give you Mr. Benno Friesen.

Mr. Friesen: Thank you. I guess in this group I have to call you Mr. Schroeder, usually it is Harvey. He comes from Chilliwack, which is about 30 miles from my own constituency. I felt some ominous vibrations when he said, "Now on to Mr. Friesen". That is the way my voters look at it, and then to say that the Prime Minister has put me—what was the phrase you used, "Put me in charge"? No. It made it sound ominous. I at least felt that way.

It is good to be with you. I am a member of the CPA, but I have never participated in any of the conferences, and I feel honoured that you would let a neophyte like me address you in a group like this.

I was reading an article a few months ago in Readers Digest, a complimentary article sent to us by the editor of the Readers Digest, an article written by Bruce Hutchison. I thought he made a very perceptive capsulized statement on the nature of government, and he said, "Politics is human nature roughly organized", which I thought was pretty good. Because at the bottom of all we do in the political arena is accommodating human nature. If it weren't for the way we are, we wouldn't need government, because government simply systematizes our so-called civilized society in such a way that the basest among us are neutralized, and those of us who have ideals can have those ideals enhanced. Politics is human nature roughly organized. I am not of the school of thought that believes that we are getting better and better. I have, as I have told colleagues of mine, a distinctly Augustinian view of man, if I can use that theological term, that we have to look after the fact that we are not idealistic in our approach to the affairs of man.

If we are going to look at the committees, which I think is the assigned topic today, I think we also have to look at the background to the problem and to at least one of the assumptions, maybe two that underly our concern.

Reflect, those of you who are parliamentarians, and those of you who are not, the degree to which you have interacted with parliamentarians, reflect on the days when we were newcomers to Parliament, and the psychology that is involved in being a new Member.

I was introduced to a chamber of 264 members. I came from what Torontonians think is the backwoods of British Columbia even though we are very urbane where we live. I had been 12 years in a college classroom teaching Chaucer and Matthew Arnold and having 30 or 40 students victimized by me for 40 or 50 minutes. Then to move into a chamber of 264 members who had competed very, very vigorously for the honour of being there, was quite a transition. I know that I was in a different ball game and the competition was very real, especially for a new Member. There were all kinds of other psychological factors that entered into it. I had seen all of these other people, who are now veterans in the House of Commons, I had seen them on television, and I was somewhat intimidated by them.

Curious psychological things happened. For example, one of the things that I noticed when I got there was that many of the people whom I met for the first time personally, were much shorter than I imagined them to be. We think of these people as being prominent politically, and in the public mind we figure they are also prominent in stature. It wasn't necessarily so. Those are some of the games that go on.

I arrive there, I am somewhat intimidated by the circumstances, by the arena in which I'm sitting. I put my name on the speakers' list! I'm going to speak! Gung-ho! And then I find out that my name keeps going down the list and I can't figure out why. The senior guys in the party get on ahead of me, and instead of being sixth I get to be maybe 16th. I come with all of the euphoria; I am going to speak out on what I really believe, but I don't have ready access to the platform. So I'm somewhat intimidated by that.

Then I think, if I'm not going to get that much room, on the speaking roster in the House, and even if I get that place, the media are going to cover the front benchers—you know the jargon. The press gallery knows who is in the front bench and who isn't, and they have already telegraphed ahead of time to the National Press Club which people come from the key ridings, and are key people, and have all the blue ribbon credentials for being in the House of Commons. If you're prominent from the business community you're a blue ribbon candidate. It might be that you stammer, and can't put a sentence together, but you are a blue ribbon candidate. So they've got it telegraphed.

It means I'm not going to be reported, and I'm not going to get attention, right? I see them sitting out here nodding. You remember those days, right? Oh, yes.

Mr. Comtois: It's still the same.

Mr. Friesen: You're right, it's still the same. So even if I get on the speakers' list when I want to be, it means that my impact is quite dulled from what I thought it might be. That is the curious psychological thing that happens to me as a new Member.

That's the first six weeks. Then the supplementary estimates come down. First, I don't quite know what they are, but I try to find out, and then I realize that they're going to be handled by committee and I say to myself, "Okay, I'm one of 264 in the House but if I get into committee I'll be one of 20. That's where I can really participate."

So I go to committee. I sit there with a row of six or seven of my colleagues on my side—I am speaking now as I was then, an Opposition Member—and eight or ten on the other side. The Chairman calls the meeting to order and my colleagues start participating in five or ten minute blocks. I can't figure it out, I'm not being called on. I nudge my colleague beside me and I say, "What's going on here?" He said, "Didn't you put your name on the list?" What list? I find out there are a few things going on here that passed me by.

So the second psychological thing happens and that is that I find in committee, even though I am now one of 20 or 22—

Mr. Comtois: You're still 16th.

Mr. Friesen: I'm still 16th, right, exactly. So what do I do? One thing I learned is to put my name on the list but I'm usually second so instead of getting 10 minutes I get five, and the game goes on.

Then the third thing happens. If we're dealing with estimates I think, as members of the committee, we want to participate in a very valid way in the committee proceedings so we're going to investigate whether this money is being spent properly, whether the clauses in the legislation are valid, and if we have valid alternatives we can submit them here.

Then I find that if the government thinks that my idea is in danger of being accepted—and I say that deliberately that way—then they make sure that there are enough members of their party there to make sure that my motion will be defeated. So there's another curious thing that happens.

I say that without any reference to political parties. It is not a problem of political parties, it is a problem of human nature. I say that again in the context of saying I have an Augustinian view of man because we tend to protect the defects of our nature by building blockades around it rather than dealing with the defects. We want to protect our inadequacies and subtly we think that the way to protect our inadequacies is to prevent them from being seen. That is no way to run the ship.

So these are the things that happen to the Members. On one hand the Member, when he comes to committee, comes there with some sense of idealism and he gets a psychological shock treatment. From the government's point of view there is a work schedule to fulfill; they want to see the estimates passed, they want to see the legislation passed, and that has to happen. So the government pushes and the government found two ways of making sure that they get their work schedule completed. One was to make sure that they could change the membership on a committee in such a way that if there were recalcitrant members on that committee they could be sidetracked and members brought on side who would be more cooperative, and the legislation and/or the estimates would pass more quickly.

Second, when it comes to the estimates, if there was too much footdragging, if there was too much of what the government would term as stonewalling, there was the element in the Standing Orders which said if the estimates are not passed by the end of May they will be deemed to have been passed, and if they are not reported in the House they have been deemed to have been passed. So it didn't matter how much you stonewalled, how much you filibustered, how much you argued, how much you wanted to have them revised, on May 31 they are finished and they are passed. So there was no way in which either an Opposition or a Government Member could alter the legislation. You see there are two different views. The member comes to the committee and says, "I want to improve legislation or the estimates." The government says, "I want to pass the legislation or the estimates". There are two different ways of looking at it.

In my way of thinking these are the two most destructive elements in the rules as they presently exist, as they affect committees: the easy way of changing membership and the guillotine. So ultimately if one individual committee member does not have what he sees as an effective role in that committee, he says, "Why should I bother going?", which means that the Whips, particularly the Government Whip, but also the Opposition Whip, has a difficult time maintaining quorum which then justifies the rule for being able to substitute out of the committee. And you begin to go full circle.

It is not good enough to say, as I think the Lambert Commission Report says and the BCNI Report says, it is not good enough to say that we have to become more non-partisan. That is true, but what we need to do is to put into place a system that, number one, permits the government to fulfill its mandate and, number two, prevents the government from dominating the minds and decisions of all the members. In practical terms, that means dealing with the movements of the omnipresent whip of the party whose job it is, and you can't fault him for this, to make sure things happen in line with the goals established by either the government or the opposition parties. It seems to me that the sole function of the whip ought to be to

maintain quorum but within strictly defined rules. The quorum should not be maintained by such versatile rules as the easy change of membership on the committees.

I think the goal of the committee ought to be to improve legislation, not pass it. Now when we have such volatile memberships on committee that you can move members onto that committee at will, then you don't necessarily improve things because improving legislation is based on the premise that the people who serve on that committee have a body, a bank of information and expertise that equips them and in a very special way to work on that committee.

Now every party has done this and I have done it because I was in Opposition at that time: there was a government member who wanted to have the estimates changed—not reduced but changed, in one particular department and I was serving on that committee. That day when he wanted to do it, he could never get quorum of his party there. There were always only two or three members. So I said to myself—I wasn't totally idealistic, but it was partly idealistic—"this guy has a good measure and I think he ought to have a chance to pass his measure." But because he had only about three people there and only about three of ours were there but we were entitled to about six or seven, I went out of the committee, went down the hall to the offices of my fellow members of the Tory party and I said, "Look, we've got to establish quorum here so that this guy over here can pass his change in the estimates." They said, "Sure, anything to make it tough for the government."

So they came into the committee room, and were duly signed on to the committee by our whip. We had our quorum for the committee. The parliamentary secretary for the government on that committee saw what was happening, saw that my colleague in the government benches was going to have enough people there supporting him in the changing of the estimates. I watched the parliamentary secretary go out of the committee, go out to the corridor and make a phone call to the whip and before this guy could get his estimates changed, they had full body of people on the government's side and they defeated their own motion.

I tell you this because the people I brought in to support this motion didn't have a clue as to what we were voting on, not a clue. The premise of the committee ought to be that its function is to improve the legislation or to improve the estimates. To be able to switch that way does nothing to enhance the work of the committee, when you don't build a reservoir of expertise for the work of that committee.

If we can't deal in these idealistic terms of saying, "Well, we've got to be less partisan," then we've got to put a mechanism into place that prevents a government from doing something later on in life when it has lost its idealism.

In 1968—I say this obviously without any sense of partisanship—Mr. Trudeau came in with a package of reforms he wanted to see implemented. It was only a matter of years really, before those reforms were very much dulled. Using the vernacular, "You've got to strike the iron when it is hot," it seems to me the iron is hot right now. We've got to do what we've got to do. Therefore, I say, we've got to bring in the reforms at the time of highest idealism of a government and bring in those rules that will prevent the government from having its way later on when it has lost its idealism. We've got to put in our own road blocks. To do that, I say we must deal with the seeming growing and inevitable paranoia of a government, when it thinks any kind of change is an attack on the government itself. It isn't so. It just isn't so.

This, I say again, is a matter of dealing with human nature. Human nature, being what it is, is most comfortable with patterns with which it is already accustomed. We resist change. We are comfortable with the way things are and we like to keep it that way. Therefore, if we are going to have changes, they must come at a time when there are already substantive changes going on. I think that makes this particular time even more a propos of some possible ways of reforming the function and role of committees, one, I think is reducing the size of committees. I do think some committees have to be large because of the complexity of the subjects with which they deal, for example, transport and agriculture. Canada is a large country. Agricultural problems vary with the regional functions, and agricultural functions that go on. That is a very complex subject and therefore, it requires larger committees. Transport is also varied and there have to be some large committees. Some of that could be dealt with by using subcommittees more widely and more

effectively. We have to reduce the size of committees in order to give members a relevant function and role in the committee structure, in function, in the committee work. My goal would be to reduce the size of the committee by one-third and make them roughly two-thirds the size they are now.

Secondly, the rule of thumb for membership on the committee ought to be, in the simplest jargon, relatively easy to get on at the time of structuring the committee and tough to get off. It should not be the prerogative of the political parties to move them. Obviously, people do break legs. They do have heart attacks and so forth, and there has to be some flexibility in this rule so there can be movement. There can be special functions for which a member is called by another committee, and so he may have to move on. There has to be some flexibility, but it should be relatively easy to get on at the time of striking the committee and kind of tough to get off. When he is moved, the replacement ought to be from a reserve list that is attached to the regular membership of that committee.

I was in the Broadcast Committee at one time, and it made no sense to bring in people who were total experts in transportation to vote on that one element in Broadcast. It made no sense at all.

If we are going to have replacements, they ought to be designated hitters, pinch hitters, or what have you, who also have a specialized sense of that committee.

Thirdly, and this follows on that, the committees will be able to develop specialized functions. If the standing committees build a reservoir of expertise, because of the membership and the stability of the membership of that committee. They ought to be able to do special things. One of the things they ought to be able to do is find time to examine all of the Annual Reports of the Departments, of the Agencies, of the Crown Corporations, and of the Budget.

In that connection, I would like to read from page 14, if you have the green Bible with you. Page 14 of the Lambert Commission Report talks about the increasing deficits of the government and it says very significantly: "The single most important measure of those problems, however, is not the government's prospective cash deficit for the current fiscal year of \$12 billion or more, a sum that amounts to at least one-quarter of the government's total projected expenditures for the year, but rather"—and here is the important thing—"that deficit was unplanned and unexpected in the sense that it would not have been part of the long term plan, had there been one."

It seems to me, if committees begin to develop a body of expertise, then they begin to serve the watchdog functions they ought to be doing in government, in Parliament—a better term—so when things start going wrong they can say: "Hey, what is going on here?" They can label that. They can tag it much earlier, so we are able to build that expertise. Therefore, committees should have that special talent to oversee and I would hope we would have some new committees being formed in our Canadian Parliament, such as one on something like forecasts and estimates. It would be one that looks at a four or five year plan, broken down annually. The job of that committee is to look at that four or five-year plan and say: "We are on target" or "we are not on target", or "we are heading into trouble." In that way, the government can get those flags, those signals in long before we are on a collision course.

I think we ought to have a pre-budget committee of some kind and we ought to make the role of the pre-budget planning of the Minister of Finance a little less exclusive, certainly less exclusive in terms of the input that goes into the budget itself. Easily enough, any Minister of the Crown becomes captive to the specialists who work around him and he ought to become exposed to specialists outside of his department, whether they are parliamentarians or people from the business community. The public at large who have an expertise in the work-a-day world should also be able to get some exposure to the Minister of Finance and let him know what it is like on the other side.

I think back to the days when I was in graduate school. I was in the English department which didn't relate very well, as I said before, to Parliament. But when I was in graduate school, I was astounded the degree to which all of those graduate school professors thought that the world began and ended right there. I was telling somebody just before we came in here: I went to a Renaissance conference one time, and one of the papers presented there was the use of the participle in Spenser's *Faerie Queene*. I said to myself, I'm sure Spenser sat there four hundred years ago saying, "Now, how do I use this participle?" Corny! As

though that made a big difference. But that's what happens when you get that kind of exclusivity going on in any department.

I don't fault any Minister or a department; it's the nature of things, and we have to build roadblocks into there to prevent that kind of isolation. I think that there ought to be some kind of pre-budget exposure by the normal world to the Minister of Finance. I think that there ought to be legislative committees, which specialize in legislative language and bills. Maybe they ought to exclude lawyers, I don't know. They maybe should exclude lawyers so that it's written in language that ordinary people can understand. Ordinary people like me.

I submitted, four years ago, a very simple Private Member's Bill, and it had to do with parental kidnapping. I've been on a four-year crusade on that. And because I'm not a lawyer, and I don't know much about legal pitfalls, it was only about five lines long, and had some loopholes in it. After a year or two, the government adopted that, and said, "Hey, we think this is a good idea", and they included it in the Omnibus Bill. I am now extracting it from the Omnibus Bill and submitting it as my Private Member's Bill, because it never passed. However, that five or six lines is now three long paragraphs, because the Justice and Legal Affairs people got hold of it. Now, they've closed all the loopholes, and they've improved it that way, but I can't understand it. I simply say, "Okay, if that's the way it has to be, that's the way it has to be." Legislative Committees which specialize in legislation.

The standing committees ought to deal with watch-dogging the operation of the government by examining the annual reports of Departments, Agencies, and Crown Corporations. Finally, I think the structure of the committees ought to change. That is, the physical structure. I think it's time that we, number one, gave dignity to committee proceedings that will inspire a little bit more awe than there is there now. Now the fact that there isn't more awe there, is our own fault. We get very jocular, we get very friendly, we engage in repartee, we do all kinds of things that really don't belong in very serious committee sessions. And because we carry on that way, people don't treat committees seriously, because they don't see us as treating them seriously.

I think that there ought to be a kind of quasi-judicial atmosphere in the committee proceedings. And primarily, I would like to see the members of the committee—I'm being super-idealistic—shedding their party lines for the moment and sitting away from the chairman of the committee in order of seniority and not according to the seating of party structure. I think that's too much to hope for, because I think parties still want to maintain their identity, even in committees. It's probably too much to hope for. But I think it would be good, if we did that.

But more important, the witnesses who appear before the committee, ought to sit facing the Chairman and the majority of the committee members, rather than sitting next to the Chairman. Right now it gives the impression that the witness is a kind of buddy, a cozy buddy of the chairman, and he ought not to be that. He is there to defend his estimates, his program, his point of view, and he ought to do it. He ought not be seen, or be seen to be seen, as somebody is cozying up to the Chairman of the committee. Those are the kinds of things that are going on in my mind, and I know from talking to Members of other parties they are the kinds of things we would like to see happen in the committee system of the House of Commons.

The Committee of the Whole in the House of Commons provides a procedure by which Members can interject in the proceedings of the House of Commons in an orderly way. We have used it mainly, but not entirely exclusively, with budget or tariff measures. The Minister of Finance sits in his seat with his departmental officials there, and he can get advice on the details of those proposals from his officials while we are asking him questions. These are set off in 10-minute blocks so that we can engage in a question-and-answer session for this period of time with the Minister.

But I was unaware we do something differently in Ottawa from what goes on in provincial legislatures. That is, we can sit anywhere in the House when that is going on. I understand that in provincial legislatures the members must sit in to their assigned seats.

Not in Saskatchewan? Well, Ontario's behind the times.

I was in the fifth row in the previous Parliament, but when we were in Committee of the Whole, I would go up to the second row. If it got really punchy, I'd get to the first, but the second row was about all I could dare at that time. So I would be right across the aisle from the Minister of Finance, and we could eyeball. I thought this was a very nice thing, and you could engage in some pretty lively debate that way.

My own ideal is that it would be nice to use that system with some pieces of legislation—not all legislation, because there's no time for it. It would be a great experience to see Cabinet Ministers there with their officials, having to defend their legislation clause-by-clause in Committee of the Whole. You can rest assured that if they knew they were going to be subjected to that, they would be very careful about what they put into those clauses. If they had to defend those, they would be well-briefed.

Thank you for your attention.

The Chairman: Mr. Friesen is going to join me at the table here if there are those of you who had some questions or perhaps some comment you'd like to make. We would even accept line-ups at the microphone if we had that much time.

Mr. Laundry: Philip Laundry, Director, Research Branch, Library of Parliament. When I met Mr. Friesen yesterday evening, he very kindly invited me to heckle him. I am not going to do that, because he said very little with which I disagree. But what he did say confirmed me in a belief that I have long held: namely, that the solution to many of the problems does not lie in any radical changes, such as are so frequently urged in the press, but rather using to better affect the structure and procedures that we do have.

For example, I think it's quite clear that we have to get rid of the rule which permits unlimited substitution, because there is no way you're going to promote continuity and a body of expertise as long as we have that rule. But I remember very well in 1968, when the present procedures we have in the House of Commons were first introduced. I was assisting the Procedure Committee at the time, and remember what their thinking was. There is no question that many of the intentions of the committee were negated by what happened afterwards, and the kind of interpretations which were put on some of the procedures that we had.

For example, it was the thinking of the committee that the standing committees dealing with estimates would make critical reports on the estimates. There would not be reports proposing their rejection that would be unrealistic but critical reports which would form the subject of debates on allotted days. This, to my knowledge, hardly ever happened. In fact, I believe it was even argued that committees—and this is an interpretation of the procedures that I never understood—could only report for or against the estimates, and couldn't introduce commentary into their reports. Frankly, I've never understood that rationale at all. The acceptance of that interpretation certainly frustrated the committee's intention with regard to the use of allotted days.

Another thing the procedures provided for was that the Opposition could choose any subject they cared to debate for allotted days. This did not rule out choosing the estimates themselves for debate on the floor of the House. I remember that the House ran into difficulties over this, because there was a limit on the number of confidence votes that could be taken. I think only six confidence votes could be taken in the course of the allotted days. But in 1975 a modification was introduced, I seem to recall, whereby if supply itself was taken on the floor, a vote could be taken on any allotted day. I never understood why the Opposition did not make greater use of that opportunity.

I'm using these examples to illustrate my thesis that I do not think that we need to look for radical reform. I think, as Mr. Friesen has proposed, that we need fewer committees, we need smaller committees, we need to abolish the substitution rule. I've had many thoughts on this subject. I've often thought, for example, we should take into account the practical problems of members who so often have to be in two places at the same time. I thought we might perhaps have a nucleus of members—a nucleus which could be as small as two or three—which would remain permanent. The committee could be increased in size depending upon the reference which it received.

For example, an ad hoc inquiry could call for simply a small committee. A very important bill might call for a committee of 25 or 30. A very controversial department, when estimates were dealt with, might call for a larger committee. But in any case, it seems there has to be a permanent element on the committee which will build up—that element of continuity which is so essential.

Thank you sir.

The Chairman: May I just make an observation before I turn the microphone to Mr. Holtby? In making recommendations such as we should use committees more or we should use committees less, I think we should state clearly our point of reference. Let me tell you what I mean. I hear Mr. Laundy say, "Hey, maybe we should use committees less." That might be great from his point of reference, but I have to tell you that if we used committees less in the province of British Columbia, they would be virtually nonexistent. As a matter of fact, we may have to do away with Committee of the Whole House, because committees in our jurisdiction are hardly utilized at all. Certainly they are under-utilized, and we are thinking in terms of using committees to a greater extent.

Mr. Laundy: I didn't intend to convey that we should use committees less. I am sorry if I conveyed that impression. That was not my intention.

The Chairman: All right. Then I stand corrected. That is why I needed to know what the point of reference was. Indeed, in your jurisdiction it may be that you have too many committees. I have no knowledge. But may we continue? John, perhaps you would like to carry the ball.

Mr. Holtby: Mr. Chairman, before I pose my question to Mr. Friesen, I must rise to the defence of this House since we were accused of being behind the times. I really have to take issue with that, because I know that Mr. Friesen will have read the reports of the Ontario Commission on the Legislature which date back to 1972, and most of what I heard this morning had a faint tingle of familiarity to it. Those reports, particularly the fourth report, have a lot in them which keeps surfacing. I think at least that if we weren't implementing, we were thinking about it before you were.

I wanted to put a question. You seemed in my mind, sir, to be defending the 10-minute rule of limiting members in their interaction with their witness. I appreciate that when one has large committees the pressure for that type of restriction is there, but can you really defend that rule when a member is making a vigorous attack on a Minister or an interrogation of a witness? Would it not be worthy of some consideration to experiment with an abolition of the 10-minute rule in the House of Commons?

Mr. Friesen: Before I answer that, I simply want to underscore again the fact that I am a neophyte and that recognition is enhanced by the fact that I have three of my colleagues here who have a lot more experience than I do, in the person of Jack Ellis, Mark McGuigan and Mr. Comtois. I just want to recognize them here. I didn't mean to possibly give the impression this morning that I was ignoring them. I am indebted to them for what they have been able to teach me over the years.

Secondly, I am always impressed when I make an impression on people and they remember me. I was at a conference in British Columbia, at Simon Fraser, on a matter of parliamentary procedure and so forth last January or February and two people here have already said they remembered me from that meeting. They never said they remembered a word I said but they remember that I fell off the platform.

Hon. J. Brockelbank: That was deliberate. Anything for a laugh.

Mr. Friesen: Anything for a laugh, yes. Now to your question, John. When I referred to the 10-minute rule I was referring to committee work and not to the Chamber of the House.

Mr. Holtby: But in all phases of it.

Mr. Friesen: Right. In all phases of it. One of things that I think we could do in committee to accommodate the very thing you are talking about, would be to recognize that if a member is developing a line of questioning and he is on to something, either improving legislation or finding mis-expenditures of funds or so forth, maybe we ought to go to block timing in committee to the parties and let the parties work out how they want to use that time. If they find that one of their people has developed something that is

really hot, they could say, "Look, we have about 30 minutes here that is allocated to our party, we will let the blue ribbon guy here up in front use all of that time, or most of it, and the balance of it will be used by the other members of our caucus." That would be one way of handling it.

The other way is for the caucus members to begin to work in concert. The limitation on this is that all of us are prima donnas and every one of us has his own axe to grind—I am mixing metaphors here like crazy—everybody has his own axe to grind and has his own cause to promote, and so it is hard to get members to co-operate to the extent where they can co-ordinate their questioning. If I am on to something that I think is really hot, I've got 10 minutes and the next person in my caucus has 10 minutes, to get him to follow up on that is really hard because he has got something that is related to his constituency that he wants to bring on. It is pretty hard to co-ordinate it that way, but I think the block use of time could be a way of accommodating that and not frustrating that line of questioning.

I had a teacher who once said to me, "If you can't strike oil in 20 minutes, you'd better quit." I really think that may be true in terms of speeches. If you really don't strike oil in 20 minutes, given the regular kind of debate in the House, then maybe you ought to forget it.

I know there are political reasons for being able to extend it, but there are other ways of handling the politics of it rather than extending the use of time. I think that the 10-minute time rule would be good in the House, and is being used now in the House in terms of Committee of the Whole, and I think that it is valid. If I have a line of questioning that I think is important, what I have to say is important, somebody else will have something too, and part of it is recognizing the rights of other members at the same time, just as I want to have my rights recognized.

Now did I adequately skirt your question?

The Chairman: Mr. Comtois.

Mr. Comtois: Mr. Chairman, I would like to agree with many of the proposals made by our colleague, Mr. Friesen, but if we really want our committees to be more effective and more prominent, we must have permanent membership on those committees. Otherwise it is really a waste of time. I have been a member of many committees and when we see members change every five minutes sometimes, do you think the public or the press will have a very good opinion of how the committee works? So the suggestion to have a permanent membership and a reserve list is a very good one. I would like it to go even further. The changes on those committees should be made by the committee themselves, once the list is established by the parties. There could be as my friend, Jack, said, a certain flexibility between parties and committees on the reserve list. If a guy breaks a leg, you should have a way of solving that problem. But otherwise, we don't really have to change the committee structure, though we could reduce the committee size a little bit if we have a permanent membership. But in the way the committee operates, we have all the tools we need. It is really the members who should change a little bit, not the committee system. I agree and I hope that the recommendations will be approved by the government. I can assure you that I will approve them myself and try to convince my colleagues to approve them very early in the game. Otherwise there won't be any changes.

Mr. Friesen: Right on.

Mr. Comtois: Thank you.

Mr. Friesen: There is one other element that I neglected to mention in the earlier session. I think that the committee members ought to be appointed for the life of the Parliament and not for the life of that particular session. I might add that one effect of having rotating memberships is one that we don't notice very often but it is there nevertheless, a very serious effect, and that is the effect that it has on witnesses who appear before the committee.

It came to my attention this summer when I was meeting with representatives—I think you were there Jack—of the business community. The Presidents of companies would say, "Well, what do I want to go there for? What a waste of time." They would gladly delegate the role of appearing as a witness before the committee either to their public relations man or some other official of the company or, which is worst of

all, to some official lobbyist because they see appearing before a committee as a total waste of time. That I think is a very deleterious effect of the present system.

The Chairman: Mr. Peter Dobell.

Mr. Dobell: I've got two questions. My first one is on this same point. Needless to say I am on the same side but let us look a little bit at some of the problems. The reason that we got into this situation is that the government is reluctant to see issues it considers important turned over in committee, not because the majority isn't there at the normal time, but because some members happen to be out of town. You would then get a situation where the government would have to overturn committee conclusions in the House. That is something that we really don't want to see happening. So it seemed to me that you were rightly leaving open the possibility for some substitution from a reserve list. In other words, you are being realistic.

But I wonder if there is another device too which might also help. This should be easier where you have a more continuous membership and therefore better trust between members. That is to operate a little bit like the House and make votes on a decent amount of notice. In other words, some days you know there will be no votes so it doesn't matter how many members are present. That, it seems to me, is one device that would help. If you remember, we used it on the Immigration Committee. We knew when there were going to be votes and we knew when there weren't going to be and as a result, the government party could be quite confident on certain days that it didn't matter if they didn't substitute. I take it you agree with that.

Mr. Friesen: I think underlying that is the need to convince members that committee work is much more serious than it has been in the past. Now if it is as serious as House work, they had better be there. We have made it very easy for them to find official openings of gas stations and what have you in the constituency. Therefore it has been very simple for them to be away and I think we have to kill that syndrome.

Mr. Dobell: It is interesting that you mention that because this afternoon when we have the discussion on Ontario experience with what they call specialist committees, they have no substitution and they get 80 per cent attendance which is pretty impressive.

My second issue starts from this problem of the 10-minute rule. Like you, I like the idea of block use of time although I have never found a group of members who were prepared to do it. In fact, I remember the most effective committee hearing or committee inquiry that I ever attended was a situation where there were two members in the room, the Chairman and the member who was doing the questioning. It was sustained questioning for an hour and one-half, extraordinarily effective. Smaller committees will help a bit but you haven't mentioned television at all.

Walter Baker, at least in the press, is talking about moving TV into committees. I would like to hear your opinion on this because one of my concerns is that if we have the 10-minute rule without television, my guess is that we will have the five minute rule if we have television. I know there is another side of it.

Mr. Friesen: Let me react to that. First of all, we face an anomaly right now in committees where we allow the print media to sit there but not radio or television. Now that, to me, is of the dark ages. I say that having been one of the people who was not in favour of television in the House because of the subtle effects that can take place in the membership of the House because of television. But since it is there, it seems to me it is an anomaly to allow the newspapers to sit in on committee meetings and not allow radio and television. It just doesn't add up.

The block rule is, as far as I am concerned, an ideal. The reality is that the experienced members of the House of Commons can easily hog the block of time and the newcomer or the easily-intimidated member will be left on the fringe. Everyone wants to see his name in print, not necessarily in the *Globe and Mail*, but certainly in his home newspapers. So it means that those who are aggressive could easily take pretty well the whole block because they always have a hot issue. The guy who is a bit more reserved isn't going to make it. That is the reality. However, that is also the political liability of that party. If they are willing to let that happen and sacrifice some of their members, that is up to them.

The Chairman: Dr. Kravitz.

Dr. Kravitz: Walter Kravitz, United States. I am interested in Peter's comment about television. It is not really my question but the House of Representatives in the States is now broadcasting its floor proceedings as the House of Commons is in Canada. Many members have complained that the debates are going on much longer than they used to for unintelligible reasons. One of the reasons that has been advanced is that members are taking a good deal more time to put on their make up before they come to the floor.

I'd like to ask you some questions about your proposal to convert the committees more into the oversight business, the watchdog business. Virtually every one of the proposals that you are making for the Canadian committee system is already in effect in the American Congress, as you probably know. Nevertheless, the problem of oversight is a very hotly debated one in the Congress. By hotly debated I mean everyone says that Congress ought to be doing more of it.

Here is a situation in which all of the things you would like to see done have already been accomplished a long, long time ago and still there are complaints about our committees not performing their oversight functions the way they should. That is not to say that oversight doesn't go on, it does, but it is scattered, it is very, very superficial in a good many instances. Some programs are watched carefully, some programs are never reviewed at all. That is one of the reasons why sunset legislation is getting such great publicity in Congress these days as I am sure it must be here.

It seems to me that even with all of the technical reforms you are suggesting, you will not have reached your ideal unless you are able to change something that you yourself admit is unchangeable: human nature. I don't pretend to know very much about the motivations of Members of Parliament in Canada, but I have watched very carefully the activities of Members of Congress. With all the advantages that they have, the enormous resources of staff, of data generation, of analysis, they don't do it.

One of our Secretaries of State once said rather bitterly that Congressmen are like pigs. If you want to catch their attention you've got to hit them over the snout with a club. How do you catch a member's attention when it comes to oversight? This is, it seems to me, a much more fundamental problem than changing the structure or the procedures. Do you really have confidence that, even given all the resources you'd like committees to have and the changes in structure and the changes in procedure, that your members will be willing to sit down day after day to the hard, sometimes boring, very dull, unrewarding politically (rarely will you get a headline at the end of the route) job of examining the accounts and analyzing the problems and trying to come to judgements about programs? Do you really think they are going to do it?

Mr. Friesen: There are about four questions.

Dr. Kravitz: At least.

Mr. Friesen: At least, yes. Number one, my first reaction is what is the alternative? If we don't we revert to the dark ages politically.

Dr. Kravitz: Some would argue that the dark ages were better, you know.

Mr. Friesen: That's right. One of the liabilities of what I am talking about in terms of committee work is that it requires staff and you have alluded to that, you already have that in the American system and the staff can easily then replace the importance of the member. It becomes another kind of mini-bureaucracy and replaces the member.

I am a little bit sensitive to that now because I went to see "The Seduction of Joe Tyman" the other night, which is a Hollywood version of what we are talking about. It showed very quickly how the staff sometimes has goals that the member doesn't have or at least has ambitions to a much greater degree than the member.

Dr. Kravitz: If I may interject at this point, if the members on oversight committees are really not interested in doing the work, and they do have staff, then the staff will inevitably start taking over the functions of the member.

Mr. Friesen: Yes, that's right. That is right. Nature abhors a vacuum.

Dr. Kravitz: That is right.

Mr. Friesen: And they will move right in and you can't fault them for that.

The fundamental question, I think, you raised deals with oversight. Do you really think that we will do it? Now how do I answer that? I think that is where the appointment of the Chairman of the committee becomes vital. The Chairman by commitment, in addition to talent or orientation, has to be the person who is determined to grab a hold of oversight. That is a very loosely-worded statement, but I think that is at the heart of it. We are dealing with human nature. I repeat what I said before. We have to now build the road blocks to prevent the government, when it becomes inured to change, from doing what they would like to do. Therefore, we have to have people in place who maintain that commitment.

Dr. Kravitz: Well it may be that you may be more successful in this because in our system so often, a Chairman has a kind of proprietary interest in the agency or agencies over which his committee is supposed to have oversight jurisdiction.

Mr. Friesen: Right.

Dr. Kravitz: They would like to see the programs approved, yes, but on the other hand they are usually the authors of the programs they are putting into effect in the first place, and they are not too anxious to have those criticized. In your case, that kind of relationship hasn't been established yet, has it? Okay. And if it hasn't, for heaven's sake, don't let it be.

Mr. Friesen: I feel a little bit like a Vermont farmer. Somebody said to him, "How come all you people from Vermont answer a question by another question?" and he said, "What do you mean?"

Dr. Kravitz: The real answer is, "Why not?"

Mr. Friesen: So I want to answer that by asking you: isn't one of the subtle differences the fact that the Chairman of the Congressional committee which may have oversight, has a big political club in that the committee wields a very heavy influence on appropriations and that makes it political all the way?

Dr. Kravitz: This is certainly true on the Appropriations Committee, but even on the authorizing committees where they don't have as heavy a club as the appropriations, they don't have jurisdiction over appropriations.

Mr. Friesen: Yes. Right.

Dr. Kravitz: They have a club in the form of the authorizations statutes, that is, the statutes that established the powers, policies and resources of an agency and since, in our system, more and more every agency is being brought under—and most of them already are—an annual re-authorization system and in fact we already have some set you see for about three quarters of our agencies, they will terminate each year unless a re-authorization act is enacted.

Mr. Friesen: Which is automatic.

Dr. Kravitz: In effect it is the same thing and not the whole government is covered by this you understand, but certainly virtually every agency has been created since World War II, has been put on a time limit authorization basis, and you must get authorization law re-enacted in one form or another in order to get money.

So the authorizing committees also have leverage, although not in the direct money sense, in the policy sense, and indirectly in the money sense too.

Mr. Friesen: I know I haven't answered your question properly. Do you have a suggestion to us on this? And putting it in the most idealistic terms, taking some of the policy—

Dr. Kravitz: Obviously this is a very difficult problem. I think I understand and sympathize certainly with the situation that Members of Congress face. They are very busy people. The time pressures on them are enormous. They must constantly make decisions about how to allocate their time and this means some things are less important and deserve less time than others, and quite frequently the full details of oversight go right down to the bottom of the list. It seems to me that there are three ways that offer some hope of providing incentives to members, of motivating them to do this kind of thing. All three of them, it seems to me, have to be political, because they are political animals from top to bottom.

The first thing that motivates members to do oversight, and to take it seriously, is when they get complaints from the constituents. A lot of people in their constituencies are complaining that their agency is not performing the services, and not delivering. Members pay attention then. But of course, that's a haphazard kind of thing. There's not regular pressure involved there.

The second is the one I mentioned earlier. If you can show a member that there is a scandal at the end of the line which will get him a headline, great. Someone mentioned the other day, Senator Kennedy, and the kinds of things that he does. Now, Senator Kennedy is in a very fortunate position, that he's the one who attracts the media, and he can use this, and does use it very effectively; use his own attractive power to highlight issues. Most members are not in that position. Most members are in the reverse position. They have to find an issue that will highlight them. And the way to do that—well, am I wrong? Therefore a good many members are looking for an issue. Some of them do it quite assiduously. I remember a former Senator who used to show up at all the American Political Science Association meetings, and the American Sociological Association meetings, and virtually every meeting you could think of, of professionals, and we were curious: what the hell was he doing? He was looking for an issue. Something that he could really latch onto, and make something out of.

But you can't always give him a scandal. As a matter of fact, my own feeling is that executive agencies do pretty well. I hate to admit this, since I'm a legislative man, born and bred, but they do pretty well. There are all sorts of things that ought to be corrected, but there aren't that many scandals.

The third thing, it seems to me, has more clout to it. I don't know whether you can do this, in your system. The people in our system who do the most intensive job of examining agencies, in the most intensive kind of detail, are the people on our appropriations committees, especially the Chairman, the ranking minority members, and the senior members of those appropriations committees. They will sit down and bring up an agency head, and go through the line item budget down to the finest, and sometimes most ridiculous, detail. Why do those people do it? I'm guessing. My guess is they do it because they feel, and they know, that the positions they hold and the decisions they make will make a difference. They are wielding real power. They've got the agency's attention. The agency is really going to listen to them. There is a pay-off at the end, in manipulating an agency. Can you do that in your system? With your committees? Can you give your committees that much power?

Mr. Friesen: Let's leave that rhetorical. That's a good one to carry with us.

The Chairman: If time limits were in place, we would not have time left for one-half of a member. We have only five minutes left. Dr. MacGuigan.

Dr. MacGuigan: I have two comments and a question, but speaking of the pay-off, that's the comment I was going to make with respect to Peter Dobell's comment about how good the Ontario legislators are in their attendance at committee meetings. They get paid for each committee meeting they attend. In both Quebec and Ontario, they have a \$50-per-day stipend. Their committees, at least in Ontario, sit only when the House is not sitting. So there is a natural incentive for members even to schedule a lot of meetings during this period, which they do. Now, I'm not really suggesting that for us, but this is a very direct pay-off which makes a comparison not as helpful as it might otherwise be.

I saw the film, too, and all I can say is that I hope that won't discourage you from helping us to get legislative assistance. I think if we're going to have this kind of additional job, which I welcome, and I really agree with everything you've said, I hope that we will be able to have people who will be able to help us with our legislative work, as the Americans have. But the question I wanted to ask is, what is the offset for the government in all of this? I realize that you're very noble-minded, on that side, and freshly there, and so on, but even getting it very quickly, it seems to me that the government's got to get something out of it for this package to be worthwhile. I suppose it's the shortening of speeches in the House of Commons, from 40 minutes to 20 minutes, and personally, I'm prepared to go along with that. I agree that you can say what you have to say in 20 minutes, and in fact, I think it will help debate. It will mean that members won't come as much with set-piece speeches. It may not be as worthwhile if they cannot give a 40-minute speech, they may not want to spend days writing something up. They may come and listen to what the other people are saying, and reply. That would be a welcome change in much of our debate in the House. But is that going to be enough for the government? If it is, I'm happy with it, but they often want more than that.

Mr. Friesen: I can't really speak yet for the government on that, because the green paper—the blue paper—hasn't come down yet. I don't mean to skirt your question but I just can't speak authoritatively. Let me speak at the level of my mentality, philosophically, and say that what's in it or the government is self-preservation. There are two ways of promoting self-preservation. One is stone-walling. The other one is becoming aware of your inadequacies early enough so that you can deal with them. The suggestion is that if Mr. Nixon would have, early in the game, said, "I was wrong", he would have fulfilled his term. What's in it for the government, as far as I am concerned, philosophically, is that if there is something going on that is wrong, the healthiest thing for us is to know that something is wrong, so that we can deal with it. If we start playing games, and pretend that it isn't wrong, or again, interpret it as an attack on the government, then it seems to me our life span becomes inevitably shorter than it otherwise would be.

The natural laws are such that it will wind down anyway. But it will hasten the demise of any government when you start stone-walling. The very quick answer is the goal is self-preservation and we would like to see as much openness that way in order to save our skins.

The Chairman: We have one further question. The time has expired. Is it agreed that we hear it. Please proceed.

Mr. Andrew: Bob Andrew from Saskatchewan. I would just like to put a pitch in here for the small legislatures. You talk about a time frame. In Saskatchewan, our House sits three months of the year. We have for all intents and purposes no intersessional committees; the committees on public accounts, or Crown corporations, et cetera, sit while the session is on. They are crammed into that three-month space period.

There are very few committees sitting, for example, in that nine-month period. It strikes me that we could perhaps look at such things as agriculture. The Committee on Agriculture, which is a standing committee, has not met for something like 47 years, I believe. I think that shows the attitude in the province.

You're concerned about the press? Our province is the only province to still exclude the press from the committee meetings. This seems to be the basis of a big fight we're having—whether or not we'll let the press into our meetings.

On the Public Accounts Committee, which consists of eight Government Members and four Opposition Members, four of the Government Members are Members of the Cabinet. I think in many other provinces, the smaller provinces, the Chairman of the Public Accounts Committee happens to be the Minister of Finance. So it's all very nice that we're talking here about many rules that apply to the Province of Ontario, perhaps the Province of Quebec, and Ottawa, but very few of them apply directly to the problems that committees face in the smaller provinces.

The Chairman: Thank you very much. I'd like to express thanks to Mr. Benno Friesen for his being here. I'd also like to thank each of you for your contributions and your questions. The session stands adjourned.

The session adjourned at 12:03 p.m.

THURSDAY, OCTOBER 18, 1979 - AFTERNOON SESSION

Chairman:

Mr. John MacBETH, Q.C., M.P.P.,
Deputy Chairman of the Committees
of the Whole House,
Legislative Assembly of Ontario

Subject:

The Techniques of Specialist Committees

Main presentations:

Mr. Donald MacDONALD, M.P.P.,
Chairman of the Ontario Select
Committee on Ontario Hydro Affairs

Mr. Peter DOBELL, Director
of the Parliamentary Centre for
Foreign Affairs & Foreign Trade

Mr. Alan SCHWARTZ
Counsel to the Ontario Select
Committee on Ontario Hydro Affairs

Participants:

Dr. Mark MacGUIGAN, M.P.,
House of Commons, Ottawa

Mr. Philip LAUNDY
Director, Research Branch
Library of Parliament,
Ottawa

Mr. Claude VAILLANCOURT,
Vice-President of the National
Assembly of Quebec

Mr. Mickey CLARK, M.L.A.,
Legislative Assembly of Alberta

Mr. Joseph-Roland COMTOIS, M.P.,
House of Commons, Ottawa

Dr. Walter KRAVITZ,
Senior Specialist
Congressional Research Service,
Library of Congress, U.S.A.

Mr. John LEEFE, M.L.A.,
House of Assembly of Nova Scotia

Hon. Harry GRAHAM, M.L.A.,
Speaker of the Legislative
Assembly of Manitoba

Thursday, October 18, 1979

Afternoon Session

—Summary—

Techniques of Specialist Committees

Mr. MacDonald began the discussion with an outline of the scope of Ontario's select committees: investigating the activities of particular ministries or agencies; studying policies or issues; revamping major statutes, and reviewing the recommendations of Royal Commissions.

Mr. MacDonald then discussed what he saw as the requirements for an effective specialist committee. First among these was the acquisition of a competent staff, although he stressed that committee staff by no means had to be large to be effective. Other key elements identified by Mr. MacDonald were availability of a Hansard transcript, careful preparatory work by the Members and a willingness to conduct committee business in public.

Mr. Dobell's presentation began with a comparison of Ontario's select committees with Ottawa's special committees. His view was that they operate in essentially the same fashion, although special enquiry committees are resorted to less frequently in the House of Commons.

Mr. Dobell pointed out how important it is for special enquiry committees to know that the Government is interested in their advice. He also argued that the role of chairman is absolutely fundamental to successful committee work. The ideal chairman, in Mr. Dobell's view, possesses strong leadership abilities, but must maintain a non-partisan, somewhat independent approach so as to maintain the trust of all committee Members. Finally, Mr. Dobell disagreed strongly with the Ontario practice of questioning by committee staff.

Like Mr. MacDonald, Mr. Schwartz based his presentation on his experience with the Select Committee on Ontario Hydro Affairs. Essential for committee success, he suggested, is a means of following up on earlier recommendations. He also contended that committee staff have an obligation to be aggressive; at a minimum, staff should initiate questioning when members are still coming to grips with new material but they should give way to the Members as they become familiar with the topic.

In discussing approaches to committee staffing, Mr. Schwartz maintained that a permanent staff might be less expensive than outside counsel or consultants, but would lack the necessary degree of independence. He also argued against the practice followed in the U.S. Congress in which each party has a committee staff, on the grounds that this would foster excess partisanship. Finally, Mr. Schwartz explained how the Hydro Committee dealt with complex, technical issues: by bringing before the Committee the most articulate spokesmen on each side and letting the Members reach their own conclusions.

Discussion ensued on the need for committee staff to come from outside Parliament, on the role of the Chairman, on the advisability of questioning by staff, on the size of committee staff and on minority reports from committees.

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
THURSDAY, OCTOBER 18, 1979**

The seminar resumed at 3:17 p.m. in room 151.

Mr. Holtby: The session this afternoon deals with techniques of specialist committees. By specialist committees we mean those committees established in this House called "select committees" to investigate a specific subject.

The Ontario Legislature has a long history of this type of committee. I think a number of Houses do as well. Generally, these are the committees that members enjoy the most, they contribute the most to, they attend the most, they pour their hearts and souls into them. Members are always very interested in them and I think have the greatest amount of effect.

We thought it would be useful to let you talk to some people who have considerable staff experience and more importantly, the political experience. I am going to presume, Mr. Chairman, to introduce not only you but the panellists, if I may. Donald MacDonald is the Chairman of the Select Committee of this House dealing with Ontario Hydro Affairs. He is no newcomer to this House. He was first elected in June 1955 and has served continuously. He is a former leader of the New Democratic Party. He represents a Metropolitan Toronto seat and shares his political experience by lecturing at York University in Atkinson College.

Also present to participate is Mr. Alan Schwartz, who is Counsel to the Select Committee on Ontario Hydro Affairs. Mr. Schwartz has also acted in a number of cases before the Ontario Energy Board and has acted as counsel to the Select Committee on Highway Safety.

Mr. Peter Dobell hardly needs introduction to this group. He has been with us on a number of occasions during the week and I know you have been impressed by the thoughtfulness of his inquiries in this whole process. He is Director of the Parliamentary Centre for Foreign Affairs and Foreign Trade in Ottawa, which has started to publish the magazine *Parliamentary Government*.

Your Chairman for this afternoon is Mr. John MacBeth, who has been a member of this House since 1971. He has served as a Minister of the Crown in the portfolios of Labour and Provincial Secretary for Justice and has been the Solicitor General. He has also been mayor of Etobicoke and, for the purposes of this meeting, equally important, has chaired the Select Committee on the Ontario Municipal Board. He is a member of the Select Committee on Company Law and, he is also the Deputy Chairman of the Committees of the Whole House.

The Chairman: Thank you very much, John. You have left very little for me to do other than to welcome you all here. I trust what we have to say and the contributions that not only the panel will make, but I trust some of the audience as well, will give us all a very informative and stimulating afternoon.

With those few words I am going to ask Donald MacDonald, who I understand has agreed to start off the presentation this afternoon, if he would proceed and then if there are any disputes that I have to break up, Don, I will be prepared to do my best to do it. We don't have a Sergeant-at-Arms here, but we may be able to do it.

So, Donald, if you will start off and I'll intervene if, as and when I think necessary.

Mr. MacDonald: Well Mr. Chairman, you know I am a docile character and that there is going to be no need for intervention or discipline or anything of that nature.

Peter Dobell has prepared a sheet with a lot of questions on it. I didn't have the benefit of that when I was preparing my remarks, so I am going to stick to what I did plan to do by way of an introduction and the topics that Peter has raised certainly will cover the whole field. May I also warn you, or indicate in

advance, that I am not going to attempt to cover the field exhaustively, because Alan Schwartz who has had experience on two select committees in Ontario at the staff level, and Peter, have views, each from their own vantage point. I think a total input would be best, without trying to exhaustably present it in an introduction.

To begin, let me try to set it in an historical context. When I first came into the Legislature back in the mid-1950s, I had the impression, not inaccurately, that select committees had one major purpose. That was to provide a mechanism for some interesting and occupying work for the sedentary ranks of government back-benchers. I suspect it might be a useful device in Alberta, because I understand they are rather sedentary and plentiful ranks there, for example.

I had the feeling that we never really came to grips with topics in any in-depth fashion, because of the fact that there wasn't any significant staffing on committees. But gradually over the last 20 years or more, in the province of Ontario, there has been a recognition that if a committee is going to do its job, it must have adequate staff. Therefore I think more effective jobs have been done.

The scope of select committees, as we call them, committees which meet (in theory) only when the House isn't meeting, although they may, with permission of the House, meet periodically if the circumstances demand it—the scope in Ontario has been really very broad. On occasion a select committee has been set up to overhaul major statutes, to review them such as the Labour Relations Act, or the Corporations Act. In fact, we have one such committee in Ontario that was set up in 1965, and is still going, the Company Law Committee. The closest analogy for it, I think, is the painting crew put on the Brooklyn Bridge; they start at one end, and by the time they get to the other end, they've got to go back to the beginning again, and it is going to go in perpetuity.

I say that with some measure of hesitation, because they're beginning to accuse the Hydro Committee of the same intention, so I had better be careful.

Secondly, select committees have been set up to investigate problem areas such as consumer credit or tile drainage or snow mobiles. You can see we have range from the sublime almost to the ridiculous, in terms of an intensive review.

Thirdly, the reviewed areas of ministry or agency concern, such as health insurance premiums, or Hydro affairs, the committee in which I have been most intimately involved.

Finally, they have explored policy areas, such as more effective use of school facilities, or economic and cultural nationalism. I have only mentioned a half a dozen of what could be, I suspect, 30 or 40 of them over the last 20 years or so.

An interesting new role has emerged in the last 10 years or so in the province of Ontario, and I don't know whether we have drifted into this consciously, or almost unwittingly. That is the setting up of a select committee to review the recommendations of a royal commission, before it is presented, or before the government moves to implement the royal commission. I personally think it is a pretty useful role. One of the problems of royal commissions is that they tend sometimes to get away from the real world, the real world being the world in which governments have to cope at this given time. Sometimes, their recommendations are a little esoteric, and a little way out there; so that when the report comes back, those within the bureaucracy and within the government tend to throw up their hands, and not know exactly where to start, and therefore the report rests on some shelf and gathers dust.

When the recommendations of a royal commission are reviewed by a select committee of the Legislature, you get the political input; you bridge the gap between whatever distance they may have moved from the real world, and that real world, so that I think it is easier for the government to move. You get something of a consensus from all of the parties that happen to be in the House at that given time.

For example, in Ontario, we had a review as most people did back in the 1960s, of our taxation structure, the so-called "Smith Royal Commission". When it was over, they set up a select committee headed by a subsequent provincial treasurer, John White, who reviewed the recommendations. On the basis of their report to the House, the government proceeded.

We had a very extensive review of how the Ontario Legislature should be updated and modernized by the so-called Camp Commission, headed by Dalton Camp. It was reviewed by a Select Committee of the Legislature headed by former Speaker Donald Morrow. As a result of their reports to the House, fairly total implementation of the revised recommendations has been made by the government. We have the select committee on Hydro at the moment, whose final major term of reference is to review the Porter Commission Report, when it comes out at the end of this year; this is a study of the expansion of hydroelectric facilities in Ontario down the road a bit, from 1983 to 1993.

I repeat, I think that is a rather important and interesting new development in terms of select committees, in the last 10 years, and one which I find rather useful.

A final comment before I get to specifics. Perhaps inevitably, there is an interesting fudging of the difference between select committees, and standing committees, in recent years in the province of Ontario. In my view, because our House doesn't sit long enough, often we aren't able to finish the business of the House, or we have a major piece of legislation in which they want to provide an opportunity for input from the community as a whole, such as Family Law. So a standing committee is authorized to sit between sessions, and in effect becomes a select committee.

We've had an interesting other kind of fudging or continuity. A year ago, as you may have learned—if you follow the media—we got into a little bit of a dust-up in Ontario about discounting in the food industry by supermarkets, in their purchasing. It was investigated for ten days, or two weeks, by a standing committee, which reported what they believed to be a *prima facie* case for a full investigation, and recommended to the government that a royal commission should be set up to do precisely that. After a period of two or three months, the government acted, and a royal commission is now looking into that issue.

On specifics, with regard to the title of our topic this afternoon—techniques—or what I think more accurately describes it: requirements—for an effective operation of a select committee. I would put at the top of the list, the acquiring or an adequate, competent staff. I think there is a reality that has to be faced when you set up a select committee made up of members of the legislature. Members of the legislature are incredibly busy. They have their constituency work; they have their legislative work; they may have other committee work; they have their political work within their own party. To expect a member of the legislature to do the amount of "homework"—digging into the basics of the issue—without the assistance of a staff on a full-time basis I think is expecting the impossible.

My criticism of select committees in Ontario in the past, is that they were relatively ineffective and superficial, until they got good staff. I've had the experience of a number of select committees over the 20 years—I'll have to be careful here, because one was under the chairmanship of John MacBeth back in the early 1970's but I have never been associated with any select committee in which I had such a happy, and I think useful relationship, with the staff that had done the basic job.

I want to indicate the range of things that the staff must be counted on to do. They've got to block out the ways in which you can tackle the subject. They have to win now through the potential witnesses, and make something of a decision by rather intensive interviewing of these witnesses, finding out which one of a half dozen potential witnesses is likely to make the best contribution.

A topic which we ran into many times, particularly this summer on the Hydro Committee, when we were looking at the highly controversial issue of nuclear safety was the problem of getting people, perhaps technical experts who were diametrically opposed at the ends of an incredibly polarized spectrum of views to present both of those polarized views to the committee, and if possible get an independent view: somebody who is not part of the anti-nuclear or the nuclear establishment, but who takes a somewhat more detached and hopefully more objective view. So the committee gets the whole spectrum of the information, in an orderly fashion.

The committee becomes, in effect, a jury; and the people who prepare the presentation of the material, inevitably in my view, have to be the staff. Now, let me anticipate what is a legitimate criticism. One can argue that the staff is going to have too heavy an influence on what the committee does, and what the

committee's conclusion is going to be. I think one of the qualities of a competent staff is that it recognizes that this is a danger that must be guarded against; that it is the responsibility of the members of the committee to finally get that information, and perhaps have options from which to choose but to make the decisions.

Indeed, in that connection, in an earlier discussion we had in preparing for this panel, the question was raised as to whether or not the staff should be made up of people who are experts in the field. And Peter—if I may scoop him on one of his views—may argue that that isn't a good thing, because an expert by definition is somebody with a very well formulated view who almost inevitably is going to unduly influence the committee.

I think there's a happy compromise, and again, it depends on the balance and good judgement of the staff. I can tell you of the instance of the Hydro committee, moving into an incredibly complex thing, dealing with one of the biggest corporations in the province of Ontario, that it seemed to me only wise as chairman of the committee, when we were first set up in 1975, to seek somebody who knew something about Hydro; otherwise he would have to go through a fairly long learning process along with us, and that might be to some degree a waste of time. Therefore, I looked at people who had been counsel for various intervenors before the Ontario Energy Board, and found a fellow by the name of Alan Schwartz. So I think it's a balance between somebody who is at least familiar enough with the field that they don't need to go through a lengthy educational process, to be able to do their job, and one who approaches it with care in terms of not unduly pre-empting the legitimate role of the committee members themselves.

When we get into the actual operation within the committee, in terms of the role of the staff, there is again an argument as to whether or not it is the job of the staff to lead off, and do most of the questioning, while members sit there and listen like a jury receiving evidence. Again, I think there is a happy compromise. In my experience as Chairman of the Hydro Committee, what usually happens is that the staff might lead off to open up the topic. Sometimes, indeed I would think almost a majority of the time, let the committee head into it cold and on their own, and to the extent that it was necessary at the end, to mop up with questions that committee members might not have raised with the particular witness.

So for all of these reasons, I think staff is of top priority, and in my perception has a legitimate role in a committee activity.

Secondly, and this may run into difficulties in some provinces—it's a difficulty we're only now resolving in the province of Ontario—I don't see how a special committee, doing an inquiry into a topic of any complexity at all, can operate without a Hansard record. The members of the committee themselves have to be able to go back and refer to what has been said, both for technical evidence, and for the exact views of people, particularly if they happen to be controversial views, so that you're not paraphrasing and getting into trouble by paraphrasing wrongly. The staff has to have access to a *Hansard* when they begin to do the preparatory work for bringing a report back to the committee, as does the committee itself, when they are going to make the report to the Legislature. A Hansard record, I think, is just an absolute prerequisite. Another point, and this is one that causes a little discussion behind the scenes: I don't see why committees of this nature shouldn't be totally open and public forums. Indeed, in the Hydro Committee, we have carried it to the point that our meetings are open to anybody, including the media, even when we discuss the report from our staff and the report we make back to the Legislature.

If there ever was a manifestation of President Wilson's "open covenants openly arrived at", I think it is in the operation of the committee I have been associated with. I see no reason why that cannot and should not be done; if you have an at-all-competent media around the building, with their investigative capacities, what you don't give them, they are going to dig out. They will dig it out in bits and pieces that will be scoops on the front page, because they have dug it out, rather than having it in the full context that can, and should, in my view, be made available.

Getting down to the nitty-gritty, how do you divide the time when handling a subject in a select committee or a special inquiry made up of Members from all the parties in the House? I think quite frankly that depends on the Chairman as he sees fit. In my own instance I have always found it a satisfactory

procedure just to take people as they indicate that they want to engage in the questioning. I write their name down, which may seem very logical and so on and very ordinary and straightforward.

But sometimes that gets you into trouble. If your agenda begins to get jammed up or a certain witness becomes a very fascinating one whom you want to question at greater length than the agenda permitted, you are forced to engage in some time-restraints, sometimes by saying to each member, "You can't speak more than 10 minutes, or you can't question for more than 10 minutes." Then you pass on the baton to the next person.

Sometimes that doesn't resolve it; at least I found it didn't. Sometimes all the questioning will be coming from members of one party within the committee and you will have to make a division between the parties and then within the members in the party. It is a small and nitty-gritty point but rather an important one.

Let me make a final comment before I toss this to my colleagues on the panel. Depending on the subject and its nature and the extent to which it is controversial and on the extent to which the available information is readily there, or really has to be dug out, I think some very careful preparatory work has to be done by a committee. Again let me speak in personal terms which may make my point; I think you will recognize it immediately.

In coming to grips this past summer with the issue of nuclear safety, we were faced with getting information from an industry which had traditionally been very closed. It was accused, both at the Hydro level and the AECL level and the ECB level, of not making information fully available to everybody to the degree many people thought was legitimate and necessary.

We had some real battles in terms of accessibility. I suppose it was one phase of the whole battle of freedom of information, which is a preoccupation at the federal level and at the provincial level in Ontario. We succeeded, in the final analysis, in getting from the committee a request, which Hydro, with a measure of reluctance and concern, acceded to namely that any and every document we deem to be pertinent for our inquiry should be made available.

Hydro made a stipulation that in some instances some of those documents, for security reasons or for proprietary interest, in terms of a project that is sold commercially across the world, should not be made available to the extent it could be, in effect, carted away—designs, and things of that nature. They made the stipulation that while everything was available to anybody who wanted to come in and read it—and it was made available in the library to which anybody could come—some of the documents were restricted, in that you couldn't Xerox or photograph them or, in effect, copy them in total and take them out. But apart from that, there was full access.

I think our final triumph in that connection was that in the latter stages of the committee, we even got agreement from AECL, a federal agency, that the same availability would exist for the remainder of the committee work.

I conclude with this final point, by way of underlining the validity of what I have said. I was exceedingly pleased and delighted with the testimony of one of the leading Hydro witnesses on the last day of our hearings. He made the point, unsolicited, that on sober second thought, in light of the experience they had had, Hydro was now willing to acknowledge that their concerns were not as legitimate as they thought they were. In other words, all these highly-technical, allegedly legitimately secret documents having been made available, there were no consequences to Hydro for their being made available.

Mr. Chairman, let me cut it off here.

The Chairman: Thank you very much, Donald. That was well-said, concisely-said and covered a great deal of ground. Peter, having supplied you now with a glass of water, we expect you to be just as fluid.

Mr. Dobell: It's impossible to be as fluid as Donald MacDonald. Fortunately he has raised a number of issues which I think are a good basis for starting me to comment.

I think I should talk briefly, before differing with him on an opinion, about some specific differences between federal practice and the Ontario practice, because to some degree this influences the choices that are made.

In the federal Parliament there are both select committees and standing committees which conduct inquiries and both operate essentially in the same way. For example, we don't have any limitations on when any of those committees can sit and there's really hardly any distinction that anyone from the outside would notice.

I think it's also fair to say that the practice of organizing committees of inquiry is much less frequently resorted to in Ottawa than it has been in Toronto. Indeed, where the initiative has come from the government it has usually come in circumstances when it didn't know what to do, when the problem was becoming hard to handle and when the solution was to throw it at a parliamentary committee so that for at least a certain amount of time the Opposition would not be able to criticize the ministers.

That isn't the only way they happen. When the Trudeau government first took office I think they had plans—or they had instincts—to use this technique fairly widely. They began by inviting the External Affairs and Defence Committee to make a recommendation on whether Canadian armed forces should be maintained in Europe. The committee reported that not only should they be there, but they should remain with heavy tanks. The government paid very little attention to that recommendation and after that I think decided that they would rather operate without the advice of the Members of Parliament.

The interesting afterthought to that situation is that some seven years later the government finally adopted the policy which the committee had recommended. In other words, if ever anyone was looking for a justification for the wisdom of a collective group of members as distinct from the wisdom of the Cabinet here was a case which would well document it.

There have also been occasionally some instances—this is normal in the Senate—when the External Affairs and Defence Committee has been given free references and have been therefore in a position to undertake inquiries they consider desirable without having to have the approval of the House—and that means really the approval of the ministers.

We have already been advised by the new government that they are going to resort widely to committees of inquiry. I think we're about to find out that more is being asked of the House than the House is going to be able to effectively render unless they very quickly move to reduce the numbers of members on committees. Really the load is going to be extremely heavy. This was not a point Donald made, but it's implied in what he said. Whereas it isn't always the case in Ottawa, I think it's important that a committee should embark on an inquiry of situations for which they believe or know the government of the day is interested in their advice. This leads members to work much harder, and with more conviction that their work will lead somewhere.

A possible reform by the new government will in effect give committees a pre-order of reference, perhaps simply by referring to them an annual report of a department. I think one of the problems that will occur is the committees may not be careful in their selection of studies for an inquiry and will end up with subjects which the ministers or the government of the day will not take too seriously. That can be discouraging.

I think there are ways, however, in which a committee can lead the government to take their report more seriously than otherwise might be the case. You might recollect that two days ago I raised this point on the floor as a reason for perhaps not moving by the route of special, or select or ad hoc committees which cease to exist once the report is complete. Certainly, one of the important powers which the Senate Committee on National Finance has discovered is the power to pursue its report after it's been tabled. In the two instances where they conducted major examinations of expenditure programs, some six to nine months after the report had been tabled, the minister or ministers responsible were invited to appear before the committee to report in detail on how they were proposing to respond to the recommendations. This is a technique which Mark MacGuigan's Justice Committee has tried with less success, not because they

weren't doing the right thing, but because they had the wrong minister, in trying to get a follow-up to their report on penal reform.

Incidentally, I think this was one of those cases when the inquiry was first directed to the committee because the government desperately wanted advice, wasn't at all sure what it would get, but knew if they didn't get it off the floor of the House, they were going to be in constant trouble. They ended up getting a report which was both constructive and, more importantly, unanimously supported, so the political effect was that a lot of the criticism was muted.

To deal specifically with some of the issues Donald raised, he put in his list of requirements, at the top of that list, staff. I suppose this is a case of where you sit, and he, as a Chairman, says, "What I need most is a good staff." As someone who has been involved in a number of committee inquiries, what I say you need most is a capable chairman. I can vouch for this; I can demonstrate it conclusively. I've served under four chairmen in the External Affairs and Defence Committee: We started off with a strong, independent-minded chairman and the committee drafted a dozen reports, a number of which were of high quality. We have had three chairmen subsequently, none of them of the same quality, and in spite of having the same staff, and indeed perhaps even a better staff because we had some excellent young men who came from the Research Branch of the Library, the result is almost nil. So I say without a strong chairman, the staff is helpless.

What then are the qualities one looks for in the chairman? First of all, it must be leadership. This is one reason why it is sometimes suggested that the British practice of having a panel of chairmen for committees reviewing legislation, should be more widely used. My conviction is one must have a chairman who is engaged in the inquiry, who is leading that inquiry. He is not like a Speaker. He is not keeping the sides apart. He or she is leading that inquiry. He may be assisted by staff but the leadership has to come from the elected chairman of the committee.

That person must also be perceived by the government of the day to be a person of judgement and of responsibility, someone who can be counted on to bring forward work of seriousness and who will work towards a set of objectives which they have established, and produce results.

We had a Committee on the National Capital Region with a Chairman who was not among the more effective and that committee worked for two years without producing any results whatsoever. There must be this quality of leadership; there must be judgement, and finally, the chairman must be someone who is trusted by the majority of members of the committee. He must be trusted by the Government Members but equally trusted by the Opposition Members. This requires that the person in question should have a degree of independence. The chairman may on occasion be known for his partisanship but when chairing that committee, the members of the committee must feel they are getting leadership which is dedicated to the work of the committee, rather than primarily the furthering of a party interest.

This is important because not only is the chairman the leader, but in my judgement the chairman must also exercise a controlling hand in the drafting of the report. The committee cannot draft the reports and I will come in a moment to how much role I think the staff should play. Whatever the role of the staff, I think the chairman must take responsibility in one way or another for the report that comes forward.

Now I think this means the chairman must also be in a close relationship of confidence with the staff. This must not be a casual impersonal relationship. It must be one where the chairman places great personal confidence in the staff and is prepared to give to at least the chief of staff a wide responsibility for preparing matters for decision.

Finally, I like to see a chairman who is prepared to take an active part in questioning, perhaps not as active as in the US system where they are often the primary questioner, but I think the chairman must make sure that at the end of any meeting, all of the important questions that can be asked of that witness have been asked.

Now a little bit on the role of the staff: I agree largely with what Donald has said, but I disagree in one important particular and that is I differ with a practice which is quite common in Ontario. I differ with the

view that staff should participate in the questioning. Now this is a point that Alan will be differing with me on and it will be interesting to see what your reaction will be.

To indicate my point of view, the only cases in Ottawa where I know this happened were with the Finance Committee during an inquiry in 1971 on economic policy when Jim Gillies was acting as staff adviser and he carried out questioning.

Mr. MacGuigan: It happened with the Statutory Instruments Committee in 1968.

Mr. Dobell: I was going to add one more: last year in the Competition Bill under the Finance Committee. But it is an infrequent practice in Ottawa.

My feeling is: yes, if you have a professional staff you may get more professional questioning. On the other hand: I don't believe that members will work themselves nearly as fully into the subject if they are not forced by the situation to participate in the questioning.

I am reminded of an aphorism of John Dewey, the American educator, who said, "There is no impression without expression." I do not believe that if you are not asking or trying to formulate questions that you will have nearly the same understanding of the problem as if you are listening to a smooth professional doing that work for you.

I recognize that the members may need help. I believe this can come in a variety of ways short of the staff doing the questioning. You can coach them either individually or en masse. The Senate Committees, for example, in Ottawa quite frequently ask one of their members to be a lead-off and he is coached to the extent that he feels it necessary. It is normal practice where we are involved that we prepare a detailed commentary for all members of the committee which provides background information and actually specific questions. What is always embarrassing is a member reading the question without fully understanding it; as soon as the witness comes back with an answer, he is dead. But I don't think there is any other way that members are going to learn and so in spite of the deficiencies of this process, I am convinced that it is necessary because in the final analysis what the government wants and what the public wants is to hear the opinions of the members. They don't want to hear the opinions of professional staff.

The same is true when it comes to drafting a report. I am convinced that a whole series of devices must be—and I can go into these in more detail—used to make sure that the members, by one way or another, are forced to discuss amongst themselves and to reach agreement amongst themselves on what they think. I am suspicious of a situation where the staff write up a report and, as happens in Ontario, actually tell the members what should go into the report and why it should be in that report.

I admire the system which has this go on in public. That must be quite an interesting situation but I am satisfied that this is the one part of the process that is better done in private. I am thinking particularly of the stage where you are beginning to discuss issues of a potentially partisan nature and you want to try to make sure that members don't follow the party line where one exists. Avoiding the party line may happen if you are doing it in private. It is much less likely to happen if you are doing it in public.

The second thing is, following my prescription that the staff should not participate in questioning, I do believe that the staff has some role when you are coming to the drafting stage. Perhaps by pointing out facts that might have been ignored or inconsistencies with previous conclusions reached or something. I believe that the staff should be free to participate orally in that process and yet I don't think this should be happening in public.

Now one final comment. As Donald pointed out we have perhaps some difference of opinion, but I would think only probably moderate, in the degree to which the staff should be expert on the subject. What I am most concerned about, and it flows from the same principle that I have been emphasizing when it comes to the staff's role in questioning, is a staff which knows a great deal about the subject is likely also to know what conclusions it wants to see adopted. In other words, they have a developed point of view.

If one wants the extreme example of the dangers of that route, you look at the Poverty Committee led by Senator Croll. When the staff could not persuade the members to adopt the report which they had

written, they took it out and sold it to Mel Hurtig and the poor committee was left with having to get a new staff to start all over again drafting a report, a lot of which was already in the public domain. That is the extreme.

I recognize obviously when you are dealing with hydro rates, an extremely technical subject, you've got to have a staff which are knowledgeable. My conviction is that there are interesting compromises. For example, when the Finance Committee was reviewing, in 1970 and 1971, the White Paper on Taxation, they hired as their chief adviser the then secretary of the Canadian Tax Foundation, probably the most knowledgeable person in Canada on tax legislation outside of government. He told me that he was 50 per cent effective because he knew nothing about how Parliament operated, he knew very little about how the government operated and he didn't know how to get information from within government. So my contention is that the ideal situation is some kind of marriage between the expert and that person who can learn with the committee and is generally knowledgeable in the subject.

Now I have talked at length. There are—and I am just going to list them—a number of other subjects which I think would be interesting to talk about and are germane to this topic, for example: Should Opposition parties, Members, have a staff? My own view is strongly that they should not. What should be the relationship between parliamentary research facilities and committee staff? What principles should govern the selection of witnesses? How much public participation is desirable? Should committees travel? Locally? Abroad? Should ministers be members of committees? Should committee proceedings be televised? Is there a preferred seating arrangement?

These are all other subjects which I haven't raised which might come up afterwards as well. Thank you.

The Chairman: Thank you very much Peter. You have raised a good number of points there that we can get into later. You have also stated a few fields where you agree with Donald and a few where you disagree. You have stated how important a good chairman was to the success of a committee. Our present Ontario Hydro Committee here is regarded as a pretty successful committee. Whether that is due to the chairman or not we can size up in a minute because the chairman of that committee indicated how important staff was. We are about to hear from the staff and then we can decide, Donald, whether your committee is successful because of the chairman or because of the staff. So I will ask Alan Schwartz if he will take over at this point.

Mr. Schwartz: Thank you very much. As I was listening to Peter I was glad to realize that we only disagree on the fundamental issues. We agree on everything else.

Let me start with the question which I think Peter raised and it relates to, in Ontario, whether we call the committees, standing committees or select committees. I think for the purpose of this gathering the naming of the committee is irrelevant. What we are looking at, of course, is a committee of inquiry and how that should be run in whatever jurisdiction you are interested in. Peter Dobell raised one point with which I agree very much and which I think is essential. The committee must have the ability to follow up on its own recommendations. That's something, I must say, that the committees in Ontario recognized several years ago. The Ontario Hydro Committee put forward a series of recommendations in 1976, and tucked away amongst that series of recommendations was one which said simply, "This committee should be reconstituted to insure that the relevant action has been taken by government and other bodies." The government of Ontario in fact accepted that recommendation and reconstituted the committee.

Whatever committee of inquiry you do set up in your jurisdiction, you have to insure that, if it makes the type of recommendation which requires some follow-up, there is a mechanism to do so, a mechanism other than the floor of the House, in order to insure that the work of the committee is useful.

I'll skip from that and go right to the discussion of the chairman. That's another area where I agree with Peter: it's much like saying you like apple pie and ice cream. Of course the chairman has to be someone who is respected in the House, someone who is capable of bringing all the members of a committee together, at least insofar as one would want them together, to understand how the committee's affairs

would be run. It has to be someone seen as non-partisan. I will adopt all of the nice adjectives Peter used to describe that kind of a chairman for a committee.

In Ontario we're lucky, because we have found several of those people, Donald MacDonald being a prime example that comes to my mind. The difficulty is, in the end, I don't believe you can always find that person. It's terrific for us to list all of the prerequisites for a chairman. I'm less sure whether it is always something we can fulfill. If you can't fulfill it, the question is, should you pack up the inquiry and go home? In my view, the answer is no. The committee can still, in all cases, serve a useful function. I have to say, however, that my own personal experience has been such that a good committee chairman makes the work of the committee and its staff much easier and much more bearable. Maybe that's as important as anything else during the time that a committee of inquiry is together. Normally you are looking at an issue which is of some import and tempers tend to get a little short.

The role of staff is more controversial because it is a newer concept. What role should they play and who should they be? It's in those areas that Peter Dobell and I probably differ, and it's in those areas that I hope the members who are sitting out here listening to us today, will give the most thought. It seems to me, starting with the simplest question, that there is a compromise between whether the staff should be expert in the subject or not expert in the subject. I agree with Peter that it is an error to hire staff that clearly would be expert in every technical detail, and would likely have a preconceived view of whatever topic is being examined by the committee.

On the other hand, being safe, I also agree with my Chairman, Donald MacDonald, that there is a need for some knowledge of the topic. Now, this summer, the committee I am fortunate enough to be counsel to, was examining the safety of nuclear reactors in Ontario. I don't know anything about the engineering aspects of nuclear reactors. I do know a little bit about Ontario Hydro. I do know a little bit about government. And I do have some understanding about what issues can legitimately be considered public policy issues that politicians can deal with. I think those are the areas that your staff has to be expert in. I do not believe—I share Peter's view—that I had to know a great deal about how a nuclear reactor worked when the committee began its inquiry. That will probably raise some questions later on. I believe furthermore that a committee staff has an absolute obligation to the committee to play a very aggressive role.

Again, I go down to the realities. I am not worrying a great deal about what's nice and what we would all like to talk about. The reality, as Donald has pointed out, is that members are exceptionally busy people. Being busy people, it's generally impossible for them to begin to conceptualize how one would approach a complex inquiry. There are always hundreds of issues, and those issues have sub-issues which have sub-issues which have other sub issues. And I think it is an unfair burden to expect eight or ten or twelve Members of the Legislature to be able to conceptualize an approach to dealing with them. One requires a management background to do that. One requires an awful lot of time to reflect. And one requires a lot of good old-fashioned hard work. And the hard work takes not 10 and 20 hours, but literally hundreds of hours.

At this level, I am only speaking about the organization of the inquiry itself. I think it's incumbent, however, upon a staff which, in consultation with their committee chairman, arrives at an approach to any type of inquiry, to put that approach to the committee members, to explain why they suggested that approach, to allow the committee members adequate time to think about it, and then to come back and have an open and free discussion with the committee. They may change part of it. That's fair enough, too.

As well, it is incumbent upon committee staff to find the most pertinent witnesses possible for the commission. Once again, as Donald MacDonald indicated, it requires an enormous amount of homework. In any topic that is controversial, you are going to find people beating down the doors to come and talk to you. And again, you deal with the reality. The reality is how much time we have. The reality is how any various subject matters lie within this inquiry, and how much time can we block off for each one?

If the topic is of any importance at all—and if it's not, don't bother having an inquiry—you're going to find that there are people outside the Legislature with very strong views. Believe me, if any staff tries to peg the game in one direction or another by ignoring a vocal or important group, the members will be lobbied

enough that they will know about it. Believe me, when the members know about it, the staff will know about it quickly enough. The newspapers will know about it, and if the newspapers know about it, the staff will know quickly enough.

Our system of government in Canada, and I think in all of the countries that are represented here, will ensure that there is a fair approach in the broadest sense. Given that, I think the staff has an absolute obligation to seek out, in all instances, the most articulate spokesman, and the best known spokesman; sometimes those people happen to be the same, but not always. On all sides of an issue. I'll give you a tiny example: one of the things we looked at this summer was the effect of low-level radiation, the biological effect of ionizing radiation on humans. It's an exceptionally important issue, and it also happens to be incredibly controversial. You find the scientific community, the so-called "experts", divided. Interestingly enough, they are more divided today because they know more, than they were 10 or 15 years ago, when they knew less. This is probably one of the reasons you don't want an expert advising the committee on ionizing radiation, because he falls into one of the camps. What we as committee staff endeavour to do in that situation is to find the most articulate spokesmen on all sides of that issue, and bring them before the committee. I'll use this as an aside to say that we should not go to Bonn or to England or to Washington to speak to them, but bring them to Toronto, or wherever the committee of inquiry is being held. I say this for a variety of reasons, not the least of which is the cost of doing it the other way. Even if one ignored the cost question, bringing witnesses to you allows the committee some continuity, and allows the local media and your constituents the continuity of following a regular process which takes place before their eyes, not scattered all over the globe. To the greatest extent possible, in my view, a committee of inquiry should take place in the jurisdiction affected by that committee and should not go running all over the world to hear testimony. If the testimony is that important you can ensure that it is heard in your jurisdiction.

Once you've gone through that process and have your witnesses, I guess the next question is what role does the staff play in questioning the witnesses? Here, I think, is where I most seriously disagree with Peter Dobell and I believe that this is fundamental.

The style that the committees have used in Ontario could be likened to a reverse bell curve. At the beginning of each session, committee staff presents the committee in as clear a form as possible, with an outline of the issues and some of the policy questions that arise from that issue. In that sense, we provide questions by saying, "Here are the policy questions you, as politicians, ought to be interested in."

The committee is given a clear indication of who will be coming before them, and why, and what topics they will be addressing. At the beginning of these inquiries it is clear that the members are unsure of the area. It's a learning process. During the first several days or weeks, depending on the complexity of the topic, it is incumbent upon committee staff, in my view, to at least begin the questioning, to provide, as it were, a path which can be followed in an intelligent manner by the committee members. I say that without suggesting that committee questioning should be dominated by counsel. It is a very rare day my questions last more than 45 minutes out of five or six hours of sittings.

When I said a reverse bell curve what I am suggesting is that at the beginning of the committee sessions I am more active. As the committee members become more comfortable with the topics—and I must say the organizational structure of the inquiry should be such that there is a learning progression—you should be planning it so that there is a learning progression—the members naturally, in my view, take the questioning away from committee staff. That is a healthy thing. They do it not because they are pressured to ask questions, but because they are getting to understand the topic and they want to ask questions. We structure the hearings so that their interest is kept at a high level.

Throughout probably 80 per cent of the committee inquiry, it seems to me, the most appropriate questioners by and large are the committee members. On a given day the staff should introduce the witnesses, remind the committee what they're there to talk about and why, and then leave it to the committee to ask questions.

At day's end, if there is time remaining, and only under those circumstances, I will tend to ask questions, which probably never last more than 10 or 15 minutes if I believe the members haven't received an answer which I think is essential to their deliberations at the end.

One can take two viewpoints of that. One can say, "Don't ask it. If they weren't smart enough to ask it, too bad." I don't think the public good is served that way. Second, it seems to me that that choice is always better than giving a committee member a question to read which he doesn't understand because, as Peter Dobell has guessed in advance, I have seen often enough an answer which has left the member flabbergasted but has really just opened the exact issue that the committee will have to consider at the end.

In sum, I advocate an active role by committee counsel or committee staff, but one which is tempered by the realization that it is, as Peter Dobell has so properly put it, the committee which in the end must make the decision, and the committee upon whom the public looks and relies. It is, after all, the committee's committee, not the staff's. I think one can balance those things through experience and through recognizing the realities of running such a committee.

There's one final point about questioning. Near the end of the session we tend, if we can, to go over some of the points again and allow some of the main participants, as it were, to come back for one final kick at the can. I think at that time the committee staff has a heavy obligation to ask any questions the answers to which it feels are essential for the committee to know in order for the committee to arrive at an intelligent and helpful conclusion. That's why I say it's a reverse bell curve. At the end I am a little more active and I may go back to 45 minutes or an hour or, as I did on some occasions in the Nuclear Reactor Hearings, I may spend almost an entire day. I don't like to do that, but sometimes I think it is for the benefit of all members.

I should point out that my experience has been that members have appreciated that approach, not because it has gotten them off the hook, because they have been active throughout. They have appreciated it because it is another way of ensuring themselves that the staff knows what the hell they're talking about and haven't been asleep in the back of the room all summer. It's just another indication that the staff is on top of the issues.

Finally, on the staff level, I think the next question you ought to be thinking about as parliamentarians is the question of the role that the staff plays in framing the final report. I think Peter was almost half accurate in describing what we do in the Ontario Hydro Committee. We try to synthesize the evidence as we hear it, and we never pretend that it is the evidence or the synthesis. What we say to the members is, "You have heard in this case 13 weeks of hearings, some of it very technical and very complex. Here is a breakdown of what we consider the important areas of policy that you want to think about. Here is what we as a staff think we heard. You may have heard something else. These are the conclusions we arrive at, the factual conclusions we arrive at. You may have others. As your staff we think, from a public policy point of view, here are the recommendations which flow from that kind of information."

We give that to the committee in public. We do it in public first because while it may encourage partisan debate, I have never yet seen an issue in this House, and this committee has dealt with what have been some of the most politically sensitive we have had in the last few years, that couldn't be dealt with in public. Public awareness through press coverage, and public confidence knowing that you're not locked behind closed doors, far outweighs, in my view, any tendency for members to make speeches. Hell, the members make speeches right through, they make speeches when they're asking questions, and you're not going to stop that. My experience has been that they make speeches when they're in private anyway. Let them make them to the public. I think the advantages of having it public far outweigh the disadvantages.

One of the roles that the committee staff plays, a committee chairman plays and good committee members play, is the same role you would play in any Parliament. We have some discussions in the halls before we come to the formal meeting, so that we're not stunned and shocked by what everybody is saying, and I don't think that there's anything inappropriate about that. That is how our system works. But the essence of what we say is said publicly. After the committee staff has made its recommendations in public, we give the committee the evening, and they think about it and come back the next day. My experience has been the committee then has some tough, pertinent questions of the staff. They have always had areas where they disagreed with the staff and said so, and said why, and said why publicly. And when you say why, you can't base it simply on some partisan feeling in your gut, you have to have some concrete blocks on which to build your case, whatever your case is.

I have also found that by using that method, the Ontario Hydro Committee, and I would suggest that other committees would be able to emulate this, has been able by and large to find consensus among three parties in a minority government situation in areas where everybody bet it was impossible. There does develop, if the committee uses this kind of an approach, in my view, a terrific sense of responsibility that the committee feels. In our case it comes from the leadership of the chairman, by and large, but there is a terrific sense of responsibility. Partisanship, while it always plays an important role, and one which I think you must recognize and accept, can be minimized, and has been minimized. We have a history of minimizing it, but I think it would be a terrible error to pretend it is not there. It would be a terrible error not to recognize that parties are going to take political positions.

As staff, I think you have to recognize that and therefore be very aware of the political process. That is the way it works.

I will just say one other thing and then I will throw it open. There has been, I guess in the United States and recently in Canada, a great deal of talk about how to staff committees. There are several different methods in vogue. The first is a permanent staff that sits around the Legislature, and when you have a committee of inquiry, you press a button and they appear. It is the cheapest way and I guess there is an advantage to it. I strongly suggest that that is an error. Those kind of staffs, not by the nature of individuals, but by the nature of the role you have placed them in, become part of the legislative mechanism. Too much so. You have lost an important element of independence.

If this committee doesn't like what I say, they will fire me, and I don't mind because I have other things to do. I think that it is absolutely essential that the committee staff be viewed by the public and by those judging the work of the committee as independent. I think that it is impossible for a permanent committee of a Legislature, a permanent staff of the Legislature, to retain that.

Everybody will think the staff is in the pocket of the government, or in the pocket of somebody else after 20 minutes. And, in any event, I think they will become part of an inertia, which naturally sets about if you spend all your time in one place.

The second very popular method is that every party has its own staff. I can tell you from my discussions that I have had in the U.S. and from the observations that I have made of that system that it is a disaster, because it fosters partisan inquiries. It fosters the kind of debate that you have between two and three on the floor of our House every day. Don't bother having a Committee of Inquiry if what you are going to have is three staffs advising three parties of exactly what they want to hear in order to further whatever their political goal for next week happens to be. If you are going to do that, I think you can forget the inquiry system altogether. I think in the end that the best system is to go outside of the Legislature and to hire independent people.

Now that is not to say that each party can't and doesn't, in our situation, have their own research people providing advice to all of the members. I accept that, and in fact I encourage that and work with the various research groups working with the parties. The important thing is that I am not one of those research groups. I give them all whatever answers I can, but I give them to them all equally, and they can make whatever use of them they like for their own purposes. When a committee member is discussing something with me, he is not discussing it with one of his people. He is discussing it with an independent staff person, who is answerable to the Legislative Assembly as a whole, and no one else.

Now, I think Peter Dobell raised a whole series of questions which you probably can tell I have strong views on, but I've gone on for long enough.

The Chairman: Thank you very much, Alan, you have expressed yourself very clearly and succinctly, and with the strength of your conviction. I think we'll get some good debate here.

Mr. Laundy: I have to take issue with the last speaker, if for no other reason than my job security depends upon him being wrong. I don't understand the rationale of his argument, that staff employed directly by Parliament, in a centralized way, either in the Library or in the House of Commons or the Legislative Assembly, however it may be done—I don't understand why such staff cannot be independent;

why they cannot give independent and dedicated service to committees, why they can't in fact—because this is how I see an implication—do an honest job. They are, after all, directly responsible to Parliament. They are hired by Parliament, they are employees of Parliament, not employees of the Government. Their services are equally at the disposal of Members of all parties, to committees in their collectivity. I am not saying there isn't a role for outside staff. I'm not saying there isn't a role for political staff. I believe there's a role for staff at all these levels. I don't think anybody would dispute that in the condition of modern parliamentary government, the Parliament and the Legislature needs top quality staff assistants at several different levels.

As a matter of fact, when this matter is discussed and written about, as it is very frequently, I find that whether you are reading a document that carries the prestige of the Lambert Report or whether you are reading the relatively ill-informed comments of journalists in the press, they never pay any attention to the services which are already available. I am not pretending that they are doing a perfect job or that they are doing the only job that needs to be done, but they are, I think, at least doing an important job. Peter Dobell was kind enough to make a reference to the Research Branch of the Library of Parliament in Ottawa. I don't want to labour this point but just for the record, the Library is a substantial operation. It consists of 200 people. The research operation accounts for 68 of those people and 45 of the 68 are research officers, qualified in a wide variety of disciplines. They do provide the kind of service that was being discussed to committees, certain elements that were referred to, such as suggesting questions to be put to witnesses and participating in the drafting of reports. These are functions that our research officers have performed at the direction of the committees, as well as the analyzing and summarizing of evidence.

Peter Dobell and his operation have also carried out this function, I believe. In spite of what you were saying about staff not putting questions, Peter, I think it is quite right that you and your colleagues have certainly suggested lines of questioning to witnesses. I know you participated in report drafting and this kind of thing, just as we have. I must confess that I do not understand the rationale of the argument that staff employed in this way cannot do a proper job because they are not independent.

You did acknowledge, of course, that it is the most economical way of providing the service. I venture to suggest that we are less expensive than you are for example. But I think we have proved over the past 15 years in Ottawa that we do have a role. I think the Congressional research service which is the prototype of this kind of operation, even though it is serving a different system of government, has completely demonstrated the essential nature of the service it is providing and other Parliaments of the world have embarked upon the same course.

One question I would like to put to Mr. MacDonald and to you Mr. Chairman, is whether you anticipate your committees taking advantage of the research service that has recently been established here in your Legislature, and whether you anticipate that this staff will expand with a view to providing extended services to committees. We reached a point in our operation in Ottawa where we were given specific authority to add 10 new positions—this was back in 1972, I think—on the specific understanding that we would extend our services to committees. So I would like to ask that question.

One final point, because I don't want to give the last speaker the impression that I disagree with everything he said, I certainly agree with the view that he and Mr. MacDonald took on the role of experts. I believe the role of the experts is as witnesses. Staff need to be competent and knowledgeable but experts do tend to be wedded to their own points of view. I mean there have been experts who have told us in the past that Picasso couldn't paint and that the Titanic couldn't sink and that the price of gold would never rise beyond \$40 an ounce. These at one time or another have been the opinions of experts.

Peter referred to Senator Croll's Senate Committee on Poverty and the difficulty he had with his staff. He confided to me afterwards that he had come to the conclusion after this experience that the only genuine experts on poverty were the poor. I think one has to be careful of experts and I think the role of the staff can be very crucial in explaining technicalities, drawing attention and underlining the differences in expert opinion. This is where a good competent, knowledgeable staff can play a very important role. Thank you, sir.

The Chairman: Alan before you reply, and I am sure you didn't make that remark without expecting to be challenged about it, does anybody else want to take issue with that matter?

[*Traduction*]

Mr. Vaillancourt: For years, every Parliament and government has tried to enhance the role of Members, especially the role of backbenchers, that is the government Members. The member has always been defined essentially as a person elected by the voters of a constituency that he or she represents in the National Assembly or in Parliament, but his or her role as a legislator has always been overlooked. A member is elected not only to represent citizens or to settle their personal problems, but he must also play an active role in the National Assembly; that is why increasing efforts are being made to enhance the role of Members.

Now, I would like to comment on the chairman's duties to which Mr. Dobell referred some time ago. I am presently Vice-President of the National Assembly and I have been chairman of several committees for two years. Some of those were standing committees, and some dealt with a specific issue, as is the case with select committees. In Quebec, the role of the chairman of a parliamentary committee has essentially been the same as that of the House Speaker; he presides over the debates, and sees to it that each Committee member has the right of speech and that the Standing Orders of the Assembly as well as each Member's rights are respected. And I get the impression, listening to Mr. Dobell, that the role of a committee chairman is to act more or less like an Attorney General, an inquisitor or a lawyer who would substitute himself for the members of the committee and would examine witnesses somewhat like a public prosecutor in a criminal case; obviously, the consequence would be that the members gathered around the table and the staff would act merely as spectators because of the responsibilities and duties entrusted to that ideal chairman whose very existence was questioned by the gentleman sitting to my left. My first question is: Do you not agree that the role of an Assembly Speaker is, first of all, to preside over the proceedings of the Assembly and to see to it that the Standing Orders are respected, and to you not feel that this approach tends to further discredit the legislator's role that Members must play in our legislatures.

Mr. Schwartz: I think I agree with the last speaker in his discussion of what the chairman should do. I think that Donald MacDonald has, probably, again found the happy medium. I think his main role as chairman is to provide at least an appearance at some level of non-partisan leadership and direction for the committee, and to ensure that the proceedings operate in a smooth and expeditious manner. That's not to suggest that the chairman shouldn't ask questions. I think he should, but his role in asking questions should not be, in my view at any event, any greater or less than any of the other members that are sitting as part of the inquiry. I think it is important to insure that the chairman doesn't have a special role in the questioning.

The Chairman: What about your attack on the civil service?

Mr. Schwartz: Right. Getting back to my attack on the civil service—I don't want this to seem like it's backtracking. It wasn't meant to be quite as stunning a blow as it appears to have come out. I think that in the end I would say the following. If you were a member of the Civil Service in Ontario and had—I know you are hired by the Legislature and are answerable to the Legislature and you've had the same government here, and I don't make any value judgement on that, but for decades and decades and decades—I know it will be denied into the death—there is a natural tendency to feel a closer kinship with those folks who have been around for 35 years. I think that just happens.

The second point I would like to make is that it seems to me the type of Library service that is available in Ottawa, is a good and important thing, and that in fact we are going in the right direction in Ontario by expanding the service that we have here. The distinction I would make is in the use that should be made of it. It seems to me that this is a service that can be usefully used, and ought to be, by all members at all times. It can be of use to committees, and ought to be.

I often had evenings where I wished you, sir, were available so that the committee staff could go and talk to you and be the beneficiaries of your research and knowledge. Still, I have to say that I distinguish that quite clearly in my own mind from advising the committee directly. Anybody who is a government

employee on a full-time basis, I think is viewed differently, whether that is right or wrong, is perceived differently.

Mr. Laundy: But not government employees, this is my point.

Mr. Schwartz: No, legislative employees. I accept that. You may say that you are perfectly independent and I accept that but I think that when one is getting into a controversial inquiry there is something reassuring to the public, in knowing that the committee has hired some person unattached in any way with the legislative process to conduct that inquiry. It seems to me that it is one of the things that I learned in law school many, many years ago, that the law doesn't only have to be just, it has to appear to be just. I think that is true about inquiries of all sorts. In order for them to be effective, it is extremely important that they have not only credibility within the House, because I am sure you have that, but they have credibility at the media level, that that credibility is translated to the public at large.

Now, one other comment. It is absolutely vital that the persons doing the work you do, continue to do it and continue to provide that information. I think, as I said earlier, that in Ontario we ought to expand that service. It really is in how we use the service that I probably differ with you a little bit and I am sure if we talked about it for a while we would still differ.

Mr. Laundy: I rest my case.

The Chairman: Mr. Dobell.

Mr. Dobell: To reply first to Mr. Vaillancourt's question, and, I think, Alan you misunderstood the role that the chairman of a committee exercises in Quebec. As I understand it, the chairman of a committee in Quebec is, as you said, like the Speaker of the House. He is a totally neutral person, who organizes the proceedings. What is different is that the Minister sits in the committee and he leads the forces of the government just as the Prime Minister leads the forces of the government in the House.

Now I am not a supporter of that position because what it means is that you replicate in the committee the partisan differences and the party positions that persist in the House. I see no prospect, in that situation, of a committee coming up with a point of view which melds and crosses party lines and represents a contribution.

If you accept the concept that I have of the possibility that a committee can in some degree, and only in some degree, make a contribution that is constructive and to some degree, independent, it requires a chairman who can leave that group, a chairman who must act as the neutral chairman and give everyone a fair right to speak, and who is trusted by all members, but who is many other things besides. Now, I do not think he should become the principal questioner. The reason I made the comments that I did, is because there is one school of thought in Ottawa that believes the chairman should ask no questions. I happen to disagree strongly with that. I believe he should have the opportunity and particularly towards the close of the meeting, since he is usually more closely involved with the subject, that he act as the clean-up questioner. So it is in a rather limited sense that I see him exercising this role of leadership.

I think perhaps I would like to add a word to the issue which Philip raised. We should understand that while the staff of Parliament are in a sense civil servants, at least in Ottawa, they are civil servants belonging to a separate, quite distinctly separate, service and I have no doubt that they perceived by the Opposition, and by the former Opposition now the Government, to be completely impartial. Maybe it would be difficult in Ontario to be seen as impartial, but I don't think this is so in Ottawa.

But I do think, Philip, that probably none of your people could exercise the overt directing role that Alan Schwartz exercises. You would not agree to them performing that role, and I think that, in other words, you like them to be active but not that active.

Mr. Laundy: It would depend on whether the members require this extension of our service. We couldn't initiate it, certainly.

Mr. Dobell: I do want to add a little bit because I do agree with Alan in terms of the relationship and this is something where probably, Philip, you and I would differ slightly. I believe that the Research Branch

should serve as a research arm, not only for the members, but for the committee. I believe that whoever is responsible to the chairman for acting as chief of staff, should be in the position that Alan mentioned of being able to communicate directly with the researchers from the Research Branch, and to ask for assistance.

Now your principle is that this must come as an order from the chairman. What I am concerned about is that one has a busy chairman who has trouble finding enough time to run things, and if he is in effect directing too, or if you have a distinction also with the committee clerk, three separate services each of which are reporting to him, then it may be too large. It would take up too much of his time and it may lead to less effective support to the committee.

So I believe that the system that prevails in the United States, where the CRS acts either directly or indirectly in support of committees is one that would in some instances be more helpful.

Finally, the opportunity may not come again and I do want to respond to a point that Alan made, and that is, if you find that your members can't cope with the questions, then my reaction is that this is not an issue that should be before Parliament. There are royal commissions or some other body that should be coping with it.

The Chairman: I want to keep things in order first. Donald MacDonald has a comment to make. Probably you want to follow up on what was just said.

Mr. MacDonald: I have a very brief comment on the proposition of the role of the chairman, and let me emphasize in advance that it is a very personalized reaction in terms of select committees and my experience is restricted to the Hydro Committee. I acted there as an extension of the way I have always felt one should act as a participating chairman in a committee, namely, you don't hog the show, your basic job is to see that things operate in an orderly fashion, but that you have as much right to ask the question as anybody else in the committee. I would say less, rather than more, than anybody else because there are others out there who are leading the fray and you are mopping up or satisfying your own doubts or your own particular interests.

You specifically asked me what is going to be the relationship with the Library or the Legislative Research Groups here. My answer to your question is that I simply don't know. As you are perhaps aware, this group of, I think, five or six people only, which is rather modest by comparison with your 68, for example, were appointed on August 1st. I think I am accurate in stating that committee has become conscious of their existence and moved to involve them.

I might make this comment, that at an earlier stage in the queer animal we have now in our Legislature called the Board of Internal Economy, which decides on what money will be made available for anything in relationship to the Legislature, there was quite a discussion a year or so ago as to whether or not we shouldn't move to a pool of counsel from which any committee might draw at any given time. There were sufficient doubts about the wisdom of that, so they didn't proceed. Their motivation was to get it on a less expensive basis, to have people on staff who would be available for any standing committee for short term ad hoc jobs, but once again that isn't resolved.

I think the honest answers on both the counsel and a pool of counsel or the research staff is that we are really just coming to grips with this as an addition to the resources of committees and the Legislature as a whole and haven't worked it out in Ontario.

[Translation]

Mr. Vaillancourt: Mr. Chairman, I simply want to tell you that I asked you a little while ago about the role of the chairman because as chairman of a parliamentary committee, I encountered a very unique problem approximately one year ago. The parliamentary committee had been asked to convene a meeting of the *Société générale de financement du Québec* (Quebec financing Corporation), a crown corporation.

Several people were accompanied by their attorney or their lawyer and, at that time, it was extremely important for the chairman to only preside over the debate and to act as the Speaker since, very often, when questions were raised by the committee members, the counsels for the witnesses summoned before the

committee would ask for the protection of the committee, in the same manner as protection is requested in the courts so that the testimony of a witness cannot be used against him in a trial.

Since our Standing Orders do not cover this subject, we had to refer to the old Standing Orders of the National Assembly and, at the time, the committee members decided to give the witnesses the protection of the parliamentary committee so that their testimony before the parliamentary committee could not be used against them during trials currently being held before the Quebec courts.

Therefore, I would like to put you on your guard so that our parliamentary committees, which we also call "commissions of inquiry", do not become in reality small courts. When matters are serious, the laws of our different legislatures enable the government to set up commissions of inquiry which have very specific powers defined by law. These commissions can call witnesses who are represented by lawyers and who are protected.

It is especially important that the committees, which are by-products of the National Assembly or the Legislatures, do not become courts in which the witnesses feel they are being interrogated and cross-examined by the elected representatives who are not there to judge others, but to gather information. Let those who have been appointed to judge others and those who have been commissioned to inform people do their respective jobs.

The Chairman: May I as Chairman just make a brief remark about that?

Mr. MacDonald: Participating Chairman.

The Chairman: I think we are dealing in your question with something a little bit different than the kind of inquiry in general that Donald McDonald's committee has been investigating.

Mr. MacDonald: Just as a footnote, John, interestingly enough in our Standing Committee on Resources Development, when we took a first run at the whole problem of discounts in the food industry, when Mr. Nicols came from Loblaws and Mr. Bolton came from Dominion Stores, they had their lawyer there, and the lawyer on occasion intervened and said, "Don't answer that question." So down the road we may have that problem too.

The Chairman: I don't think you are going to get any clearcut lines. I was going to refer to a committee that I chaired some few years ago in the Ontario Hydro Building. Ontario Hydro always has committees looking at them. This was in the building across the street here. I was going to add one thing to your list of things that maybe parliamentary committees don't belong in, is something that borders, in my mind, on the criminal field or where it might be criminal, malfeasance of some sort or serious allegations. I think those are very difficult for a parliamentary committee to deal with and perhaps could best be dealt with in a more formal and legal sense by some kind of tribunal other than the political tribunal we have here. Maybe we can get into that later. It's one of the subjects I want to raise because I think sometimes we refer matters to select committees that are best dealt with elsewhere.

I have had you waiting a long time, sir, to come and make your comment.

Mr. Clark: Mr. Chairman, I'm Mickey Clark from Alberta. I thought I'd better get a word in here for Alberta.

I'm kind of an optimist by nature, being a western Canadian grain farmer, but I find it stretches my optimism a little bit to find that there could be two or three political parties working on a committee which are virtually by their very nature at odds with each other to ever come up with a very good decision. I admit that if you want to make something work you can make it work, but I don't believe the odds are with it in this case.

As to Mr. Schwartz, when you mentioned forming a committee and then hiring professionals or staff to sit in and question the people who come before that committee, I believe that you downgrade the committee to such an extent that it loses its usefulness. I just can't see the object of a committee if we're going to have other people, professionals, doing the questioning. I think it's the duty of the committee to bring back a recommendation to the Parliament, who is ultimately responsible to make the final decision.

That is just a comment, Mr. Chairman.

The Chairman: Any reply to that comment, anybody?

Mr. Schwartz: I think you should be aware that in Ontario, at least in the Hydro Committee, I would guess, 80 per cent of the questions are asked by the members. They are the most active participants, not the professional staff.

You should also be aware that in fact the committee does write a report, which is the report tabled in the Legislature and debated in the Legislature as a committee report.

Our experience in Ontario has been, and I know it's surprising, that we have managed to find a degree of consensus among the parties. I believe that this comes about with responsible approaches being taken. I don't downplay the partisanship which is ever present in the political forum. I do think that the degree of partisanship can be tempered at times and we have a history to prove it in the last few years. It's not to suggest that it always happens; you're right. There are times where the issue is such that despite all the good advice in the world you're going to have a political split.

I do want to make it clear that the bulk of the committee work is done by the members and they carry the bulk of the questioning, the bulk of the thinking and are very actively involved from day one.

Mr. Clark: Just to clarify one point: in Alberta we have started a small experiment with our standing caucus committees that report back to caucus. We have several of these kinds. We have special ones—there's lots of names for committees—some of them look at just one area, others continue on. The Utilities Committee, as we call it, is one of these, and the Water Management Committee for Irrigation, and we have other committees. We've been interviewing people and bringing what you might call the temperature of the political scene back to the caucus and so to the government and Cabinet so that their decisions are based on what we feel is the political temperament of the area we represent.

[Traduction]

Mr. Comtois: Mr. Chairman, I would simply like to comment on the so-called experts who are often asked to assist the committees in their work or to testify before them.

The experts are always right, except when things go wrong. Then the experts turn around and tell the politicians: "Solve the problem yourselves". I am always suspicious of governments or politicians who have blind faith in experts.

I agree with the idea of calling experts to testify before the committees and it is the role of our auxiliary staff to find two experts who will contradict each other because insight can be gained from conflicting ideas. I liked Mr. Schwartz' comment on a recommendation to stop the construction of an atomic energy plant. He seemed very pleased to say that they had not saved anything but that delaying the decision had cost \$50 million and that with that kind of money, they could have operated for a hundred years.

It could very well be that, in three or four years, it will cost \$500 million more to build the same plant. Have you thought about that side of the coin? Very often, decisions are made on the advice of an expert—and when nuclear energy on economics are concerned, decisions have certainly been made on the advice of an expert—only to discover several years later that that decision was wrong and based on misleading information.

One must always proceed cautiously with regard to the type of decisions we have to make as a government or Parliament and keep in mind the long-term effects of such decisions. It is the role of the committees, especially when they examine controversial matters like nuclear energy, to try and see the long-term effects of decisions.

When I read in the newspapers that Hydro Ontario had made that decision, I thought that it was the wrong decision and that you should have gone ahead.

Faced with the energy crisis, I see that the Ontario Government and others are pleading with the Lord to put an end to the increases in the cost of oil. And yet, it was decided to put a stop to the construction of that plant. A few millions may have been saved, but in two or five years, it will cost \$500 million or a billion to build exactly the same plant and, in the meantime, we are faced with an unemployment problem and all kinds of enormous problems everywhere.

We made the same mistake in Quebec. I have colleagues from there, and I understand that they also stopped the construction of the same type of plant in that province. Everyone is complaining there too.

I would like to say that since politicians are those who make the final decision, even if they have to go against the advice of the experts, I think that we should give some thought to our long-term role. Thank you.

Mr. Dobell: I would say the situation in Ottawa is probably about the same as that in Alberta—that is that in almost every instance the members would not accept the kind of role that is accepted here. It just wouldn't be appreciated. I know if I were the staff adviser and in effect telling the members what they should be thinking and arguing with them when they disagreed with me, that would be an intolerable position and would not be appreciated by the members. I have to respect Alan Schwartz if he can make it work, knowing how difficult legislators are.

I want to respond, though, to your doubtfulness about committees managing to reach a common conclusion even if they have members from a variety of parties.

First, one has to recognize that your situation in Alberta is unusual because of your tremendous domination of one party. You have to work through caucus because that's the only way to preserve some contact with the public. But take the situation in most jurisdictions: as long as the issue comes before a committee where the government hasn't taken a public position—where the government says, "We don't know what we think," or "We're waiting to hear your view"—the Opposition has nothing to attack because there is no government position. The government members, accordingly, have no position they feel the need to defend; they are liberated.

Once they start to work I am persuaded that an all-party group is a very, very effective body for the review of political problems. The alternative is to use the Public Service. My conviction is that good as the Public Service is, they lack certain things that a Parliamentary committee has.

What are those qualities? They, through the committee proceedings, can become reasonably familiar with the technical side of the problem and they mix that with the political; so you get a balance of the political and the technical, an important contribution.

The second thing, and this is more important at the federal level because of the enormous size of the country, you get representation from across the country, representation that is in regular and constant touch with local people. So there is a blending of concerns, regional and local, that are taken account of as the committee proceeds and as the report is being drafted. That is again something the Public Service can rarely bring.

The third tremendous advantage: if you are able, out of this, to find agreement across party lines, then a government which decides to accept those recommendations can go ahead with relative confidence that the Opposition isn't going to be attacking it. The Opposition has already said, "We think these are good ideas."

There are few issues federally which are more controversial than immigration—which divide people any more between rural areas and cities and so on. When the Special Joint Committee on Immigration were drafting, they had over 300 votes; yet it will interest you to know in not one of those votes did they divide on party lines. It was a genuinely all-party decision that emerged from it. So I think it is possible.

Mr. MacDonald: I was just going to say briefly, and I hope not too gratuitously, I can quite understand the view you've expressed in the experience of Alberta. When and if the Alberta Legislature ever achieves a position where the Opposition is fairly close to the same strength as the Government, and

you have three parties really represented rather than one party totally dominating the Legislature, I think, as I underlined with Peter, you will find a sense of responsibility among them in terms of achieving consensus—the consensus necessary for Parliament to operate, and for democracy to survive. But within your circumstances, I can understand where a committee for the most part is funnelling in views that will go to the Cabinet rather than to the Legislature - though they may go through the Legislature to the Cabinet.

The Chairman: You've been patient. Have you forgotten your question?

Dr. Kravitz: I've forgotten my name. Walter Kravitz, U.S. Congressional Research Service. My question is addressed to Mr. Schwartz: You've described the staff operation and the organization for a special inquiry kind of committee. Am I correct in assuming that you would not necessarily recommend that kind of staff operation is appropriate for every other kind of committee operation? You're saying this special kind of committee operation is the one you think this is best for, is that correct?

Mr. Schwartz: Yes, I don't think it's the best for all kinds of committees. I don't even think it's the best for every inquiry you can conceive of. I just think that generally it is a good approach for inquiries. But you can imagine all sorts of committees sitting on matters other than inquiries where you would take a different approach.

Dr. Kravitz: For example, if you have a permanent committee—a committee that sits throughout, in your case, the whole Parliament, in the United States a standing committee that exists throughout the whole Congress and continues to exist – this kind of staff operation you describe is not necessarily the kind that would be appropriate?

Mr. Schwartz: Absolutely.

Mr. Leefe: John Leefe, Nova Scotia. First, I have to say that I found the three points of view put forward most interesting. Secondly, I found them for the most part largely irrelevant. I found them irrelevant from this point of view: it seemed to me that all three speakers were addressing themselves to the problems of how committees should operate, on the assumption that considerable staff support is available to any committee which may be given a purpose to fulfill.

While that may be true of Ottawa, Ontario or Quebec, I would hasten to point out that is not necessarily the case with Nova Scotia. While I would hesitate to speak for them, I would suspect it was not the case for provinces like Prince Edward Island or Saskatchewan either.

Mr. Dobell: What do you mean by considerable?

Mr. Leefe: For example, our Library, in our jurisdiction, has the massive staff of three—and they are all librarians.

I happen to be sitting on a select committee in Nova Scotia now. The staff support for that committee consists of two people—secretary to the committee, and a secretary to the secretary. The secretary to the committee is a person who is very knowledgeable in the area we are investigating, which happens to be constitutional matters, and he's very interested. As a result, he is also very much inclined to ensure that he gets his fair share of the questions when we have the opportunity to have witnesses appear before us.

Because of his expertise, and because of his makeup, he is very often inclined to attempt—not overtly, I'm sure—to dominate the questioning. This reaches the point that occasionally various members from all parties become afraid that the questions which are being asked are the questions not of the committee, but of the committee's staff. The natural extension of that is, when the time comes for the committee's report to be written, whose report will it be? Will it be the report of the committee, or the report of what essentially is a one-man staff?

So while many of the things you have said may be very true for the jurisdictions in which you work, they are not necessarily applicable to the jurisdictions in which many of the rest of us work. Therefore, what Peter had to say perhaps comes closer to the mark for meeting our needs than what the other two gentlemen have had to say. The committee members must become knowledgeable. They must do their

homework. They must be prepared to put the questions, and they must be prepared to make sure that the report is their committee report because they don't have the variety of opinions available to them, and they don't have the kind of wide staff support available to them the other jurisdictions do.

When we are talking about guidelines for successful committee work, let us insure we do not provide a prescription based on the experience of some jurisdictions, and attempt to make it applicable universally.

Mr. Dobell: Staff is a word which is generic. There is no singular or plural. Most of the committees with which I've been associated, have had one staff. In other words, if you take a major study carried out by the Senate Committee on Foreign Affairs, there was a part-time clerk, one full-time person from my office, and one person lent part-time by the Library. My conviction is a great deal can be done by a small staff, if they work effectively, if they are free to take a certain amount of initiative, and if they have a good relationship with the chairman, but with this addition: While they must be compatible with the chairman, they must also be perceived as working for the whole committee. That is terribly important.

The Chairman: I've got a domineering counsel who wants to comment on this.

Mr. Schwartz: I think you might be a little surprised to know the staff of the Hydro Committee is two people. Two people. I believe, from my travels across this country, there isn't a province in this country that can't find two capable staff people. That includes P.E.I. and it even includes Nova Scotia. With a staff of two, we have looked at, as a committee, uranium contracts that took two years to negotiate. We have looked at a \$500 million cost overrun on a construction project. That was not the cost of the project, but the overrun of the project. We have looked at one of the most controversial issues facing the country today, the safety of nuclear reactors.

I want to assure you, regardless of any impression Donald and I may have left through our comments today, that the members, on this committee, do become very knowledgeable. That's one of the functions of the staff, to help them become very knowledgeable. Second, they do their homework, because the committee is run in such a way that if they didn't, they would be almost embarrassed. Thirdly, they have not only the final say on what the report is going to say, but the most important role in determining where the final report comes out. I believe a lot of the things all three of us, Peter included, have talked about today, are, in fact, applicable across the country, and in other jurisdictions as well.

Perhaps we talk about it in such glowing terms that it appears to become a terrific web of information. The web of information—and that's an ultimate point—is two people. That's the size. It's one ahead of the staff you just described. It can be done with a small group. In fact, as Donald knows, I have long resisted, very forcefully, the addition of staff to staff. I believe two or three people is perfectly adequate for any problem.

I have one other comment. Peter mentioned if a committee member can't cope with an issue it shouldn't be before the committee, it should be before a royal commission. I have never yet seen a technical issue Members of Parliament can't grasp at the level they need to grasp it, to make public policy decisions. I want to reiterate that. It's something in which the members, themselves, should find confidence. If the information is given to them in a sensible way, if the jargon is removed, they can understand every issue I've ever seen, well enough to come to grips with it. I think the important point is not that a member might get confused on one or two questions, but whether he understands the overall picture being presented to him. When I talk about cleanup questions at the end, I don't believe it's necessarily possible for the members to think of each and every angle which they at the end may be capable of discussing if the information is put before them.

I won't go any further than that, but I really do want to reiterate this point: I have worked with committees in Ontario, I have seen a committee in New Brunswick operate, and I do not believe there are problems which can't be tackled in an intelligent way by the members.

Mr. MacDonald: If it is any consolation to our friend from Nova Scotia, the description of how committees have to operate in Nova Scotia to my recollection is precisely how they operated in Ontario 20 years ago.

Mr. Leefe: We are always 20 years behind you.

Mr. MacDonald: No, no, in terms of limited staff. I want to try to put this as inoffensively as possible. You are as busy as we are. In fact, I suspect even more so because you sit for shorter periods of time and you've got all of your constituency work and all of your political work and everything else. I don't see how it is possible for you to come to grips in depth, to come up with an authoritative report without the assistance of staff helping to bring that material to you.

I have gone through the process you mention in years gone by. In fact, there was a classic case in Ontario of my predecessor, E.B. Jolliffe, who was on a committee which looked into conservation authorities or water supply in this province. The word was he wrote the report. It was a magnificent report. He became totally captivated by it. He should have been doing many other things as leader of the party. He shouldn't have been engaged in writing the report.

If you're really going to be serious about a committee of inquiry I think you've got to have staff. I reiterate what Alan said, it doesn't need to be a great big staff. I'm rather intrigued, if one were to compare the staff of the Hydro Committee with the staff of, for example, dare I say it, the Porter Royal Commission on Electric Power Planning. They had staff of scores of people. I venture to suggest we may make as meaningful a contribution at our level, the political level, with a staff of two.

Mr. Schwartz: I just want to make one other comment about the cost of this kind of committee work because that is something that is raised every once in a while.

The Committee on Ontario Hydro Affairs operated this year on a budget of just under \$400,000. That's a large chunk of money. That has to be looked at, in my view, in the context of several things. It must be looked at in the context of the overall budget of the Legislature. It must be looked at in the context of the issues with which you're dealing. Let me give you one small example.

This committee recommended, after six weeks of inquiry last summer, that half of a heavy water plant being constructed on the Bruce Peninsula, not be constructed. They recommended a halt in construction. The government looked at that recommendation and several days later the Minister of Energy said it was premature and not well considered.

Five months later the government changed its view and in fact, halted construction on half the heavy water plant. The delay of five months cost the people of this province \$50 million. This committee could operate for 100 years on that five month delay.

It's those kind of issues I think all parliamentarians have to consider when they think about the value of these kinds of committees and the expenditures that go into them. It really is a very relative thing. I think you have to assess on an independent level whether you're getting the bang for your buck.

Mr. Andrew: My question is to Mr. MacDonald. I'm an Opposition member in Saskatchewan. The problem I see is the government are going to be the people who determine what the committees are going to be. You made mention of some kind of a group of your Legislature, which would obviously have some type of input into what your committee would be. It seems to me that is really a very fundamental thing as to what you are going to investigate. If you are going to investigate some things that really don't, perhaps, have all that appeal to them, I can't see that the committee system is really going to develop.

Mr. MacDonald: My comment would be that our experience that we've been speaking to, is primarily an experience of the last five years, during a minority government situation. We have a new situation in Ontario, where there is great discussion among House Leaders. Particularly in a minority government situation, the government will hesitate to bring in something that the Opposition is going to vote down, for example, the terms of reference for a committee. So there is considerable discussion and consensus arrived at, before anything is brought in. Now that may not obtain in every majority government situation. But I would hope that we can reduce the adversary nature of Parliament, which I revel in, to a point where you can have that measure of consensus on what the committee should be doing, so that the Opposition isn't out in the cold.

The Chairman: I might say that recently around here, I think the Opposition has more to say on what committees will meet about, and when they will meet, than the Government. However, that is a by-the-way gesture.

I think what we might be saying is, beware of experts. I think that can be just right in many cases. After all, a little common sense has to apply, and we want to take the expert's advice but know how to temper it with a little bit of salt or pepper, or whatever else you need to apply. I appreciate those words. Does anybody want to comment on them?

Speaker Brockelbank: Brockelbank, Saskatchewan. I would just to get a cross-section of opinion from our experts about what kind of views they have on minority reports, reservations and things like that, when the final report is written.

Mr. MacDonald: I'll give you mine. There used to be a habit in Ontario, in which they tried to insist that there could be no minority report. At one time, back in the days when we were looking at, I think it was the Labour Relations Act, we were able to persuade them that, on the basis of a study done in Manitoba by John Bracken, members were able to dissent on every given recommendation if they so wished. This gives you a broad cross-section of the views rather than a homogenized report in which you don't really know what the committee did.

I think there should be an opportunity for minority reports or a dissent on any given recommendation, with a brief explanation.

Mr. Dobell: The federal situation prohibits a minority report formally tabled in the House. The practice, for those who want to go that route, is to make a press release. We have discovered a reasonable, I think superior, alternative Instead of saying that all of that committee holds, or "the committee concludes", or "the committee recommends", in the situations in which there is a difference of opinion with in the committee on any specific recommendation, it is now accepted that we can write "a majority", or "most of the committee", or "almost all of the committee". In this way you can also present the minority view at the same time.

The advantage is that it is more realistic because obviously you can't have a large report in which everyone agrees. It also provides those who are receiving the report an opportunity of finding out whether this is something that all members agree on, or whether there are differences of opinion and how those differences of opinion are expressed. I think that is a very satisfactory way. It helps them to get a unanimous report.

Mr. Schwartz: I must say from my perspective as well, I think Peter has hit it on the head. When you get into any complex issue, it is natural and desirable that there would be some disagreement on some issues. In Ontario, as Donald says, we allow that in the report. I think it is a healthy thing, although I must say I think it is important for a committee to work towards consensual, and not to encourage dissent. I think it is important that a report has as many areas of agreement as possible by all members because it obviously carries a great deal more weight than a fractured report. At the same time, I think it is incumbent upon a committee to ensure that a member who disagrees on any given issue, or the whole report, has an opportunity to say so, and as Donald said, to write the reasons briefly.

Mr. Dobell: I would go further and say that I think that this enhances the possibility of getting unanimity. I have seen cases where the committee denied the member the right on one point to express a minority opinion, he then refused to sign the whole report.

Mr. MacDonald: May I make another brief comment and it is also going back to our friend from Alberta. We have succeeded in the Hydro Committee in getting a majority report on every issue with the one exception, when we examined the uranium contracts. That split the way of each party and they each put in their views. But in all the other issues, and they are very complex and very controversial, we had at least a majority. Sometimes the majority was the Opposition, sometimes it was one of the Opposition parties on the Government.

Mr. Schwartz: Sometimes it was all three.

The Chairman: Yes, Mr. Graham?

Mr. Graham: Mr. Chairman, in reply to something Mr. Schwartz said, that he felt a unanimous report was very important and that it would benefit the results. I'd like to point out that the Bracken Commission Report to which Mr. MacDonald referred, became so credible and so universally accepted in Manitoba, because of the very fact that it was not an unanimous report, and expressed every point of view that was raised.

The Chairman: Certainly that was my thought, and as a member of the committee if I am going to sign it, I want to feel that I've signed it and endorsed everything I have a serious thought about. In other words, there are parts of a report about which you may not feel very strongly one way or another, but when you are signing it, you want to say, "well, that is what I think, too, and I have had the right to depart from that opinion if I felt strongly about it."

A member from Alberta.

Mr. Clark: Mr. Chairman, in Alberta, we do have Legislative committees made up of all three parties, and they are small. The Opposition is small, and you were right when you say that there were so many committees to go on that the few members thought it was really too much to ask of them actually. They have worked successfully. As I said before, you can make anything work if the people who are working on the committee wish to make it work. But it is much more difficult, I think, that way. We have had very good success with our caucus committees so far, and it is an experiment. We have just started it this year, and we have started out by bringing in people—interviewing people in school committees, and in hospitals with the balance billing, and touchy areas like that. We have had very good success with it. It is something that has worked for us where we have a large majority.

Mr. Dobell: I was going to say that if I were in Alberta and responsible, I'd turn to that route. But I think it is disastrous for any Parliament where numbers are largely balanced. If the issues are, first decided by the government, then taken to the caucus and a great deal of time is spent on examining them, then you can be sure that by the time they come to committee or full Parliament, the majority is just not going to give a damn for what the minority thinks. So I would not like to see your practice prevail in a situation where you are anywhere close to equal numbers.

Mr. Clark: You just went backwards on our committee structure. We go to the committee first. We get the feeling of the people, we take it to the caucus, through the caucus, to the cabinet, the caucus makes recommendations to the cabinet and then on to the government.

The Chairman: Well, ladies and gentlemen, I think the hour of 6:00 has arrived. I don't want to cut off anybody who has any words of wisdom to impart. I have enjoyed being here. I thank the members of the panel for their part. I thank each and every one of you for your participation. The meeting is now adjourned. Thank you.

The session adjourned 5:59 p.m.

FRIDAY, OCTOBER 19, 1979 - MORNING SESSION

Chairman:

Mr. Michael BREAUGH, M.P.,
Chairman,
Procedural Affairs Committee, Legislative Assembly of Ontario

Subjects:*Statutory Instruments*

- I. *The need for scrutiny of Statutory Instruments*
- II. *Methods of Examination of Statutory Instruments*

Main presentations:

- I. Mr. Robert ANDREW, M.L.A.,
Legislative Assembly of Saskatchewan
- II. Mr. Lachlan R. (Duke) MacTAVISH, Q.C.,
Counsel to the Statutory Instruments Committee, Legislative Assembly of Ontario

Participants:

Hon. John E. BROCKELBANK, M.L.A.,
Speaker of the Legislative Assembly of Saskatchewan

Hon. Harry GRAHAM, M.L.A.,
Speaker of the Legislative Assembly of Manitoba

Dr. Walter KRAVITZ,
Senior Specialist,
Congressional Research Service,
Library of Congress, U.S.A.

Friday, October 19, 1979

Morning Session

—Summary—

Statutory Instruments

Part I—The Need for Scrutiny of Statutory Instruments

Mr. Andrew set his remarks within the context of the increasing degree of government regulation in modern society. He expressed some misgivings about the overall degree of regulation and about the possibility that legislators may (for quite understandable reasons) have left too much discretion to the executive and to the bureaucracy in the form of authority to create regulations.

Mr. Andrew then gave a brief account of his experience with the Saskatchewan Regulations Committee. Although this is important work, Mr. Andrew said that Members are generally unwilling to put much time and energy into it since the political rewards are so limited. As a result, much of the committee's work falls to its counsel.

Part II—Methods of Examination of Statutory Instruments

Mr. McTavish began his presentation with an outline of the procedures followed in Ontario for regulations, and his role in developing them. He then explained the functions he performs as counsel to the Statutory Instruments Committee, describing the process by which he vets the regulations for the committee. He stressed that the committee's jurisdiction extends only to the *vires* of regulations and not to their policy implications. Finally, Mr. McTavish set out the guidelines on which the committee bases its evaluation of regulations, and discussed some technical but highly significant problems of legal interpretation relating to regulations.

Discussion following the presentations centred on retroactivity in regulations and on devices for legislative veto of regulations.

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
FRIDAY, OCTOBER 19, 1979**

The seminar met at 11:08 a.m. in Room 151.

Mr. Holby: Ladies and gentlemen, since time is of the essence today, I will not take any time with preliminary announcements, save to draw your attention to this document which you may not have picked up because of the rather stuffy title, "Rule-Making Hearings: A General Statute for Ontario", from the Commission on Freedom of Information and Individual Privacy. It has a great deal of bearing on the scrutiny of regulations. It is at present a discussion paper. I commend it to you along with the background paper prepared by Mr. Smirle Forsyth of our office, which is contained in your background papers.

Mr. Chairman, if I may intrude on your territory to introduce them, the panelists are Mr. Robert Andrew and Mr. Laughan MacTavish, better known to us as "Duke". Mr. Andrew is a member of the Saskatchewan Legislature for the Progressive Conservative Party. He is Chairman of the Public Accounts Committee and he is Progressive Conservative Party Whip. He was first elected in 1978. We are going to be interested in hearing what a new member thinks of this regulatory hodge-podge that we find ourselves in.

In contrast to Mr. Andrew, Mr. MacTavish has been practicing law since 1932. He has served as Senior Legislative Counsel and Registrar of Regulations in this province. His CV is so lengthy that I dare not begin to cover the many, many tasks he has undertaken for the province of Ontario. Notably in my mind, he was a Commissioner to revise the Statutes of Ontario in 1950, 1960 and 1970 and also to revise the Regulations of Ontario. He was a member of the Canadian delegation to The Hague Conference on International Law in 1968 and, important for this morning's purposes, he is counsel to the Committee on Statutory Instruments in this House.

Your Chairman for this morning is Mr. Michael Breagh, the Chairman of the Procedural Affairs Committee of the Ontario Legislature. He was first elected in 1975 and was re-elected in 1977. He is a member of the New Democratic Party for Oshawa. Mr. Breagh attended the 1977 Seminar on Parliamentary Practice in London held by the Commonwealth Parliamentary Association. It is a pleasure for me to call on him now to take the Chair to preside over your meeting this morning.

The Chairman: I think we should have an interesting session this morning and we should get right into it. Mr. Andrew is going to lead off for us this morning.

Mr. Andrew: Perhaps I should explain my interpretation of the meaning of statutory instruments, as perhaps some of the other members of this seminar, like myself, have only been elected for a short time, so that we know exactly what we are talking about.

Over the last 10, 15 or 20 years, governments have grown substantially larger and become more centralized and our society has by necessity, become more regulated. Governments of all political stripes—it is not a political question—have seen fit to delegate legislation in order to deal with this regulated world. That is primarily what we are talking about.

As you know, each time a bill goes through the House, it will say "the Lieutenant Governor in Council may make regulations", et cetera. That is primarily what we are talking about. The Legislature is saying, it is going to delegate to the departments or to governments of some type, power to make legislation.

Obviously, the vast amount of government that we have now in the areas of highways, or anything you want, requires that type of thing. Otherwise our parliamentary system would simply come to a grinding halt because of the massive amount of information that we would have to go through as legislators, the technical nature of it and the subordinate nature of that legislation or regulation.

So we have the delegated legislation. Put in that tone, I suppose, and in looking at it as legislators at this seminar, obviously it is another example of where the legislators have in effect given power over to the executive branch of our government. As I have said, that is necessary, but by the same token the executive branch of government or the bureaucrats will take that and probably expand upon it, resulting in what we see now very often in legislation and is referred to as "skeleton legislation".

I think it is best described by an example. In the last provincial election in Saskatchewan, and I think this is a good example, one of the government campaign promises was that it would, if elected, allow the money paid by homeowners for mortgage interest to be deducted from their income tax. This was somewhat of a catchy campaign, and when the legislature came into place in 1979 sitting, the government passed that bill as an amendment to the Income Tax Act.

Basically what it said is this, taxpayers can deduct mortgages, interest paid on mortgages, from their income tax. That was the first clause of the bill. The second clause was that the Lieutenant-Governor-in-Council may make regulations to effect this. So the net result is what they've basically done in this form is said, "Okay, this is the general thing we are going to do." But of course then the people are going to say, "How much do I get and how much is to be applied here, and what rules apply? Do I have to be a resident? Does it apply in one house or two houses? Is there an income limit?", or whatever it might be.

The government still has not made regulations on that, and I am sure every other province and other parliamentary system can cite numerous examples of the same type of thing.

So obviously we as legislators, in giving that up, have perhaps created a potential problem.

The other thing is that the regulations are by and large drafted by the departments or by the regulatory bodies that they are delegated to, so that you lack any kind of uniformity in the way in which you draft legislation. I think if you make any kind of a review at all of that type of thing, you are going to see a different type of drafting.

Saskatchewan, to its credit, in order to counteract this type of problem has set up a committee called the Regulations Committee. The Regulations Committee, by and large, will sit in review on all regulations. The one problem with it, is that it will not review anything except regulations. In other words, ministerial orders or matters delegated to a commission or something, are not subject if they are not in a regulation to be subject to review by that committee.

The committee developed in Saskatchewan is what we call a Regulations Committee. It has an Opposition Chairman. It can meet inter-sessionally which is, I think, the only standing committee that does meet inter-sessionally. It has research facilities available to it in the sense it hires an outside counsel to review the regulations, and by and large it is somewhat non-partisan in nature. I think that is primarily because most people, most of the members, really don't rush to get on this committee. They see no political advantage in it. They see quite a bit of work going through these somewhat dull regulations, and in the end virtually accomplishing very little politically for themselves.

But I do think it is a good committee in that sense. The Regulation Committee in Saskatchewan also has another feature to it, and I think it is worth pointing out. It is not so much in regulations, I suppose, but any amendment by professional societies, the Law Society, the Dental Association or whatever it might be, if they change their bylaws or pass bylaws, obviously it could affect the general public.

Those bylaws as well must be referred to this committee so there is that outside review as well. So if the Law Society is going to, let's say, try to bring in some type of rules that would be prejudicial to the public at large, it must go through this Regulations Committee and have the approval of this Regulations Committee, before it becomes valid.

Under the Regulations Committee then, all regulations that are required to be printed are automatically referred to it. From there, and I suppose this is one of the weaknesses of this committee, it is then referred almost immediately to the legal counsel. Very often the regulations of course are drafted in that difficult form that many legislators don't get very interested in reading. So anyway, the matter is referred to the lawyer, the lawyer goes through it, and comes back with his recommendations.

By and large, what we have found is quite frankly the lawyer very often is the person who does the bulk of the work for the committee, and that is not the fault of the system. That is the fault of the people who are on the committee.

The committee does have pretty wide powers in what it can do and review its effective action, and most of its action would be to refer a regulation back to the department from which it came and say, "we don't like this part of it or we don't like this part of it, or this exceeds your power to do this, or that this is poorly drafted or something else". The correspondence goes back and forth between the departments until it is satisfactory to the committee.

The committee, as well, has the power to report on any regulation or any department that disregards what the committee suggests. Then that matter can be reported back to the Legislature and dealt with in a debate in the Legislature. The problem I still see, is that although the committee is a very effective tool, it is always going to be a tool that is never going to attract a great deal of attention. I would guess that things may be different in larger provinces where the regulatory bodies are perhaps more powerful and more encompassing because of the sheer size and the number of people. You get into those regulating type agencies that start to, within themselves, build their own bases of law.

One system I have read about is in Great Britain, and I think Mr. Cunningham referred to it in his talk. There all regulations once presented or laid on the table, become law at some given date down the road, perhaps 40 days, or whatever it is going to be. There is a built-in veto power by this given committee that says, "well that particular regulation is really legislative in nature and should be debated in the legislature", and as a result have the veto power in the sense of being able to refer it back to the Legislature so that the Legislature in fact deals with it.

I think there is some merit in that provided, again, it is not used in such a way to simply try to stall things, and stall the process. I don't think the committee would do it in that way. So I think there is merit in looking at that type of a system, to ensure that this does not become more and more and more common a process with the Legislature being virtually eliminated from many of the technical rules that affect the lives of people.

As we are rather short here for time, that is really all I have to say on the subject other than some questions.

The Chairman: Duke, do you want to give the other angle on it.

Mr. MacTavish: Thank you, Mr. Breugh. Ladies and gentlemen, I feel somewhat like the last act of the old vaudeville show. It is always an animal act you know, a couple of trained dogs. I was thrown in by the management so there wouldn't be a riot when the people were leaving. Some might stay, some animal lover might stay. That is the situation I feel myself in at the moment.

Looking at your week's program, I can see why you are anxious to get down to Ontario Place and listen to a master. I may say that I have been and am—I don't know whether I will be after the noon hour—a great devoted disciple of Doctor Boren. He is a master of the mumble of course and his leading book is called *When In Doubt Mumble*. I say when you don't know the answer, then is the time to mumble. So when you hear me mumble, Mr. Chairman, you know I don't know the score and don't know the answer. But no doubt, some of you here in this room will be helpful to me and pull me out of the mire.

Having been a minor bureaucrat in this very building for more than 40 years, I have seen a lot of legislation go by and a lot of ideas respecting legislation. I had a small part in the formation of the principles and the drafting of our present Regulations Act here in Ontario. Although the Attorney General ran the committee of three and the Senior Legislative Counsel of that day—I am speaking of the middle 1940s—played the principal parts, I had, as I say, a finger in it. My chief job as I recall was to get the lemon juice and the soda water to make up the tom collins. We did the work in his back yard as we are pleased to call it here, some may call it a garden, in the month of July. It was a very pleasant exercise and I must say that it has worked very well. It is quite a simple system of filing and publication of all regulations of a legislative nature.

Now that little tricky phrase "of a legislative nature", we thought the courts would interpret and define and delimit quickly. They haven't done so so we are still in as much of the dark now as we were in the middle 1940s about what that means. But fortunately the practitioners who are preparing regulations and so on, when they are in doubt do file—as has become the guideline—so that when in doubt whether a thing is of a legislative nature or not, you file anyway, and in that way you are safe.

I'd like to put a plug in if I may for the present staff of the Registrar of Regulations Office. They are a skilled group of practitioners, of professionals, some with more experience than others, but as a group, they can and do produce a pretty good product. I think that is at the nub of the system. They advise all drawers or drafters, if you wish, of the regulations, they help, they assist and when the nub comes down, the party preparing the regulation has the last say. Of course. That is the way the system here works.

Now John Holtby stole some of my thunder in the opening of this period in mentioning this book written by a professor of law at Queen's University here in Ontario, Professor Mullan. It represents one man's idea of the future of the systems that we are talking about here today. He believes that the future will lay in notice and comment. We have been through this battle here and have come up with the practical answer I am in thorough agreement with it, that notice and comment is great but only in proper cases. There is no need, in my opinion, for a blanket statute or rule dealing with the matter.

It is much better, it seems to me, that when one is preparing a bill for the House, and it is obvious that the public might be directly concerned, that some provision for notice to the public, a press notice and so on, and an opportunity for the public to be heard and have their say is a good thing. But only in the cases where it is appropriate. I'd rather have that approach to it than the reverse that Professor Mullan has recommended, of having a general statute requiring it in all cases but then having a section in that statute that is an escape hatch, a back door out, and having a whole list of exemptions from the act.

I think that clause on the exemption tells the story. You would have 80 per cent of the stuff out the back door leaving 20 per cent in, or some such. Those are figures off the top of my head, of course.

Anyway, I think you will find this a very good study in depth, those of you who are concerned with the problems. It is well researched.

Now I suppose, rather than looking down the road to the future such as that study does, you want to know what the present situation is here in Ontario, and what I am doing as counsel to the Standing Committee on Statutory Instruments, our fancy word for regulations, which is, as you all know, popular these days. There are about more than 1,000, let's say between 1,000 and 1,200 instruments, regulations, filed and published under the Regulations Act here per year. Some of them are one paragraph long, some of them might go 100 to 200 pages. They vary greatly in size and the printing problems involved in getting them printed in the Gazette in the appropriate time and so on—well, with that volume of material going through the machine every year it is obvious that, no matter how willing they are to work, there is no way the members of the committee can do it. They have other chores in the legislature and therefore they have to delegate or assign the job and retain some misguided lawyer like myself to do the chores. And I say that because it is a frightful job, just by volume, doing the same thing over and over again, more than one thousand times a year. It becomes, let me say, monotonous. One has to have the patience of Job to stay sane throughout the piece and to keep one's wits about oneself because it is so easy to miss some little gem that should be noted and reported upon. A couple of lines or a single date in the case of retroactive regulations may spell the difference between the counsel being a hero, and if he misses this, a bum. So it is a very arduous task. It is one that I don't know any other way of doing. It must be done that way.

I report back to the committee with a written report which eventually becomes part, in a slightly different form of course, of the committee's report. Sometimes they agree with me, sometimes they don't. Sometimes I make boo-boos and in other cases the Attorney-General or the minister in charge of a particular regulation that I have criticized will disagree with me. Fair enough. That is the name of the game. It would be a funny world if all lawyers agreed among themselves on everything.

Dr. Kravitz: Or a much happier one.

Mr. MacTavish: Yes. Now in Ontario the terms of reference are rather odd inasmuch as they are found in two places. The committee is a statutory committee which in the first place is odd. Most standing committees and select committees here are set up, established, constituted by an order of the House setting out the terms of reference and their powers and so on. That is the case in part with our, let me call it, Regulations Committee, for the time being. The other part of the terms of reference of the committee are found in an Order of the House, so the committee must be struck and must perform by statute. It was also given an additional term of reference under an Order of the House, which comes along each session as our committees die with the prorogation of a session. It must be reconstituted in the following session, and carries on more or less with the same membership and with more or less the same powers. Occasionally they get out of date and must be updated.

I want to deal with the broad powers in the statute. I am referring to The Regulations Act of Ontario, section 12. "At the commencement of each session of the Legislature a standing committee of the Assembly shall be appointed with authority to sit during the session. Every regulation stands permanently referred to the committee. The Standing Committee on Regulations shall examine the regulations with particular reference to the scope and method of the exercise of delegated legislative power, but"—and here's an important "but" which I think you will all appreciate is necessary—"but without reference to the merits of the policy or objectives to be effected by the regulations or enabling statutes,"—they want government policy, the reason behind the regulation, and all of that stuff, out—"and shall deal with such other matters as are referred from time to time by order of the Assembly."

That is the gut line of the committee's powers, namely, all regulations are referred to it and they may deal with all matters of *vires* and so on, leaving out the policy.

One of the special terms of reference given to the committee by Order of the House was one dealing with—I'll quote it, it's only four lines long: "The establishment of guidelines to be observed in the delegation by statute of power to make statutory instruments and the use made of such delegated power."

I suggest to you, Mr. Chairman, ladies and gentlemen, that it is an extremely important feature of most—not only Ontario—but most other jurisdictions.

When the committee began to study this job given to it by the House, we studied a number of other jurisdictions and found most do have such guidelines. For example, Australia set up a set of guidelines as early as 1931; the U.K. Donamore Committee did so in 1932, in South Africa, 1949; in India, 1952; in the province of Manitoba, 1960; and the Parliament of Canada coming along lately, 1974 and amended them in 1978.

If I may quote from one of our earlier reports—I think it's important enough that I should—coming closer to home we find in the report of the Royal Commission inquiring into civil rights chaired by the Honourable J.C. McRuer, who is a former Chief of Justice of the High Court here in Ontario, an entire chapter was devoted to a review of subordinate legislation by the Legislature. I won't bother with the citation but if any of you wish it, I have it here. The fourth of his recommendations on this subject is very much to point. It recommends "That in Ontario the following principles should guide any review committee in its examination of regulations."

After studying and comparing the criteria adopted by the six jurisdictions I have specifically mentioned, and that, by no means, is all of them, as well as the guidelines recommended by the former Chief Justice, "We, that is the Regulations Committee, have come to the conclusion that we cannot do better than to endorse in total, his recommendations, and we do so."

There are nine in number:

"1. They should not contain provisions initiating new policy." This is aimed at the people who are making up the contents of the regulations, and all of those affected by the regulatory process as well as those who have to vet them. These are the guidelines that I follow.

"They should not contain certain provisions initiating new policy but should be confined to details to give effect to the policy established by the statute." Not by the government—by the statute.

"2. They should be in strict accord with the statute conferring a power particularly concerning personal liberties." So any regulation that infringes or cuts down personal liberties should be watched very, very closely, I suggest.

"3. They should be expressed in precise and unambiguous language." Which is a neat trick if you can do it.

"4. They should not have retrospective effect unless clearly authorized by statute."

A great many of the regulations I have seen fit to criticize and recommend to the committee, which the committee in turn recommended to the House, have been in this area. I feel there is no authority, or questionable authority, for making a regulation retroactive, in effect. Very often it's a matter of a few days or a week and clearly of general public good, so no one is affected adversely by it. In fact it could be a policy where the government is providing money for some project that is under way and the regulation is catching up to the situation—it's clearly in the public interest that it go—it is that sort of situation where retroactivity gets by. It's used in cases of expediency, but it's one that should be watched.

Speaking as a lawyer, I would say these cases should be kept to an absolute minimum and if there's any importance to them at all they should be confirmed by statute later on so that there is no doubt about the validity of what has been done.

"5. They should not exclude the jurisdiction of the courts." If any jurisdiction is excluded from any court it should be done by statute, not by way of a regulation. "They should not impose a fine or imprisonment or other penalty." If you want to create an offence and impose a fine or imprisonment for a breach, it should be in the statute; it shouldn't be done by way of regulation in a matter of serious importance.

"A regulation should not shift the onus of proof of innocence to a person accused of an offence." If you do that it should be done by statute so the Legislature has a good crack at it and knows what is going on.

"8. They should not impose anything in the way of a tax" as distinct from fixing the amount of a licence fee and that sort of thing. I think that goes without saying.

"9. General powers should not be used to establish a judicial tribunal or an administrative tribunal." If you are establishing either one of those types it should be done by statute, and more than that, a general power to make regulations should not be used for such an important thing. If the agency is to be set up by regulation, the power to do so should be expressed without any doubt.

So much for those guidelines. Now I won't be keeping you much longer, you will be relieved to know.

In addition to those guidelines there are some general provisions of, let's say, the general statutes that must be kept in mind by all people concerned with this regulatory process. I will mention a couple to draw your attention to the area that I am talking about. In Ontario they happen to be in the Interpretation Act, which is an extremely poor place for them to be, but for historical reasons, there they are, and they have been there for more than a hundred years. One is section 22 of our Interpretation Act.

The Lieutenant Governor in Council may make regulations for the due enforcement and carrying into effect of any act of the Legislature and, where there is no provision of the act, may prescribe forms and may fix fees.

Now with that general authority that is as old as the country, I have often wondered why regulations authorizing sections of a statute will empower the Lieutenant Governor in Council to make regulations for the carrying into effect of the Act. An omnibus clause commonly comes at the end of any such section of a statute giving power to make regulations.

Very often these sections of specific acts will give a power to prescribe forms and fix fees. Standard equipment. I often wonder why that is found necessary by draftsmen, and I have been as guilty down through the years as anyone else. Out of an abundance of caution one puts these in and yet the statute book is cluttered with these pious anomalies because the language is always a little different than this general

power of the Interpretation Act, which in a clutch, might spell a great deal of difference, if some court wants to be critical of it.

The other one that I wish to mention in this area is section 27 of the same Act, clause (g).

In every act, unless a contrary intention appears, where power is conferred to make regulations, it included the power to alter or revoke the regulation from time to time and make others.

So if you rely on that general power to amend or revoke, that helps out quite a bit in vetting or in examining regulations as counsel to a standing committee must do.

When you realize that four out of five regulations here in Ontario are amending regulations, that power to amend becomes second nature to the examiner and he automatically cites that as the power to amend. If he doesn't pull down the statute book and look at section 27 of the Interpretation Act, it becomes second nature to him.

And also the power to revoke. Strangely enough there are not many, fewer than a dozen a year that are straight revoking regulations. Most of them expire by the effluxion of time, or if the purpose has gone, they just die.

Few ministries take the trouble to expressly revoke them so there is an area of limbo lying around that one isn't sure of, whether the thing is alive or dead, for one reason or another.

The tough regulations, from the point of view of the examiner, are of course the fresh, new regulations made, let's say under a new act which is coming out for the first time, where the powers are being used to make regulations for the first time. That is when an examiner must be on his mettle to see that the regulations stay within the authority given by the statute.

Now one final word, if I may go to army stuff like an army manual and do this by numbers, it will save time and probably be more effective than if I expound at length. I imagine your examiner does the same drill elsewhere where this system of examination is in place.

I have boiled this down and of course there are variations and exceptions and so on, but the main line is this. There are six numbers. First, find the authorizing statute. That means pulling down some books and checking, and very often, of course, it is automatic, one knows exactly where it is and pretty well what the statute says. You pull it down and examine the exact language in the particular provision of the statute that authorizes the making of regulations. Now that is fine, except that in some statutes you will find that the regulation-making power is in half a dozen places, some of them well hidden. I won't say by design, but that is the way it works out. So you must find the provision that you believe authorizes the provision of the regulation that you have before you—those are one and two.

Three, check for amendments of the relevant provisions of the statute, because very often counsel can be embarrassed by relying on a certain provision of the statute to find later that it has been repealed and that the authority that you relied on for making the regulation is no longer in place, which is not the happiest position to be in.

The next one is to check for a retroactive date. I have mentioned retroactivity as a bugaboo, probably the most active area of bugaboos or boo-boos that we have here. Very often it is just a half a line at the bottom, "this regulation, or section 2 of this regulation, is effective from July 1", so-and-so. It can be easily overlooked by the eye, especially the jaundiced eye, and that is about it. You come to a conclusion whether the regulations is *vires* or not, whether it has exceeded the powers given by the statute. If you do, you make a note and if you feel everything is okay, as is very often the happy result here in Ontario, you make a note of your findings and make a record for the benefit of the committee to whom the counsel reports, should they wish to see whether he has been awake or not in doing his examination.

Now there is just one other point that I would like to mention for those of you interested in the jurisprudence dealing with regulations systems in your home jurisdictions. One of the problems here that I have touched upon far too briefly really, is the business of the omnibus clause, the clause that I read from section 22 of our Interpretation Act, that the Lieutenant Governor in Council may do anything that is

necessary to carry out the intent and so on, but in addition to that, as I intimated, very often the last clause of a regulatory-making power says "and may do anything else that is needed to make this thing work."

Now what do those words mean? Do they mean anything? We have had able people, experienced people say it doesn't mean anything. If you can't find it in one of those clauses above, you haven't got anything, forget it.

I have taken a position, and still do, that the words are put there by the Legislature, so they must mean something; they intend them to mean something, otherwise they wouldn't be there. Even though it may be a very limited area, it may have a very limited scope, they are there and they must be given some meaning.

On this field there is very little jurisprudence, I wish I knew more, but there is a recent case which I think was due to be reported, but I have not been able to find it yet. It came down last year, an oral judgement of Madame Justice Van Camp in our Supreme Court, and the case is known as the Town of Durham Registry Office case. I won't bore you with it, but in case you wanted to make a note of it, the reasons for judgement were released on November 23 last year.

She reviews the case law such as it is, and comes to her own conclusion in that particular instance.

Now, Mr. Chairman, if I may turn back to you for questions.

The Chairman: We thank you both, gentlemen, for providing a different perspective on this. I think I should offer some comments as another member in this House. I will bet there are upwards of 12 or 13 people upstairs in that Chamber who know that there actually is a Statutory Instruments Committee at work in this House. There might even be six or seven who have a faint idea of what they do, and two or three who care. It is interesting to follow the work of the committee, and to show you how perverse I am, I actually read their report and found it interesting. That there were some things in there which you pay some attention to.

The most recent example in our experience is that we spent about two decades being concerned about raising questions, having political debates around the matter of occupational health and safety in the work place. We then went through legislation, to one minor piece and one major piece which took us, as legislators, about 18 months to wrangle our way through. Then the Cabinet got hold of it and did its bit. Then they wrote regulations.

The fact is that if that kind of legislation is to do anybody any good, those regulations must work, so all of our political arguments may be for naught, if the regulations aren't functional, and they will be specific points around which the arguments centre. So it seems somewhat ironic that our work as legislators is good or bad, is effective or not effective, depending upon those regulations in that review. So it is a critical piece of business. It is important to us that we are effective in the detail work, even though it might not be as politically popular as some other things.

I think it not unreasonable to say that the work of the Statutory Instruments Committee here, has not received much notice and is as popular as the bubonic plague. But it must be done, it is the kind of work that is absolutely essential if legislation is to function.

So with those words, let us see if we have any questions this morning.

Hon. J. Brockelbank: Mr. Chairman, you have really got me excited about this topic now, with your concluding remarks.

I want to direct my first question, and I have a three-part question, the first one to Mr. MacTavish, and it has to do with his guidelines. With all due respect he began to sound extremely like a lawyer to me, and I am always suspicious when that happens.

He says one of the rules is retroactivity, as my cryptic notes show, only in a statutory authority, and about two notes further on he said something like this, I believe. "If in fact the retroactivity is in doubt, it should be confirmed by a statute later on." That seems to me a chicken and egg situation there, and I wonder if you can clarify that.

Mr. MacTavish: Sure. Well, I will try. I don't know that I can, being a lawyer, but what I meant to say and what the guideline is intended to say, is that a regulation should not be made retroactive unless there is authority for doing so: first the authority to make that regulation, secondly the authority to make it retroactive. That should be in the statute, but if it is not in the statute and the regulation is made in fact retroactive as a matter of government expediency, if you will, or for any other reason of any importance, that retroactive aspect of that regulation should be confirmed, should be okayed, should be validated by a statute, but it has to be in effect itself retroactive. In that way you regularize the practice and perhaps you slow down the business of retroactivity without authority, by the very cumbersomeness of the process to regularize it.

Hon. J. Brockelbank: So, in effect, you are saying at the next legislative opportunity, the matter should be strengthened, the statute-making power, or the regulation-making power, or clarified.

Mr. MacTavish: That's right, so that the letter of the law is observed, in the long run.

Hon. J. Brockelbank: The second item had to do, and it is peripheral to this. I am not sure whether it is Alberta or British Columbia, which is suggesting that along with the revision of statutes and a loose-leaf system for statutes, regulations be incorporated with the statutes. There may be a comment you wish to make about that, because it becomes much easier to amend statutes as far as the members are concerned. That is not necessarily directed to you but may be directed to anyone who has a comment on it. The final and most important subject I wanted to raise was in the event that Saskatchewan would want to revise the framework in which it considers statutory instruments. I was wondering when you describe it on a warm July evening, you have drinks and statutes in someone's backyard, whether you would recommend steak with the barbecue or hamburger.

Mr. MacTavish: I'd stick with the gin.

Hon. H. Graham: Harry Graham, Manitoba. I don't know if it is done in BC or not but Manitoba has gone to a loose-leaf system on their statutes, and we are in the process of moving our regulations in immediately adjacent to the statute that the regulations cover. It is a long, slow process. We started about three years ago and we have about another five years to go before we do get all of our regulations moved into the statutes.

This has been extremely beneficial to people. In my short term as a member I don't know how many calls I have had from constituents who would like to take a look at a particular statute or particular law that affected them, and I always had to tell them I am only too glad to show you the statute, but remember there are regulations that govern that statute, and most people didn't connect the two together. Now with the advent of putting our regulations in with the statute, I think it will be easier for people to understand the laws and the regulations that govern their everyday lives.

Mr. MacTavish: May I answer that in this way, that I think it was a slip of your tongue, but the regulations never govern the statute, it is the other way around.

Hon. H. Graham: I beg to differ with you, sir, I think that in actual practice you do find that it is the regulations that govern the statute.

Mr. MacTavish: Thank God we can choose to differ.

Dr. Kravitz: There has been a considerable movement in the United States in recent years amongst Members of Congress to establish what we call a legislative veto system concerning federal regulations. That is, to subject all federal regulations to a possible veto by the Legislature, which would prevent them from going into effect. If no veto were adopted by the Congress within a certain time, then the regulations would go into effect.

A good many Members of Congress are backing this because of complaints they have received from constituents about the intrusiveness of federal regulations, the unfairness of federal regulations, the excessive paperwork and so on. Privately, however, a good many members of Congress are also opposed to this, and I say privately because it is not the kind of reason they would care to say in public. I have heard

one committee chairman say to his members, "Are you going to be able to live with a situation in which, for example, all of the regulations of the agencies under our committee's jurisdiction would come into the committee to be examined?" Of course you won't examine them because there are too many of them, we will hand them out to the staff and the staff will make recommendations to us, and if we say "Okay, let the things go through," they will go through and then your constituents are going to start complaining. And who are they going to complain to, they will complain to the agency and the agency will say, "Don't blame us, we sent it over to the Legislature, they examined it and said fine," so they will blame you. Why don't we just leave it as it is? Let them continue to blame the agencies and then we can get up and blame them too.

The Chairman: Sounds quite reasonable to me. We thank these two fine gentlemen for providing an interesting perspective on something that does not always seem to be in the limelight. The morning session is now concluded.

The session adjourned at 12:06 p.m.

FRIDAY, OCTOBER 19, 1979 - AFTERNOON SESSION

Host and Chairman:

Hon. John E. STOKES, M.P.P.,
Speaker of the Legislative Assembly of Ontario

Topic:

Boren Format for Committifying Parliamentary Polarity
(BO FO FO CO PA PO)

Main presentation:

Dr. James BOREN
President of the International Association
of Professional Bureaucrats, United States

Participants:

Mr. Dennis ANDERSON, M.L.A.,
Legislative Assembly of Alberta

Hon. Kwaku BAAH
Opposition House Leader
Parliament of Ghana

Hon. John E. BROCKELBANK, M.L.A.,
Speaker of the Legislative
Assembly of Saskatchewan

Hon. Ada May Panepa EDWARDS, M.B.E.
Speaker of the House of Assembly,
St. Kitts-Nevis-Anguilla,

Hon. C.C. FITIH,
Majority Government Leader
Parliament of Ghana

Dr. Walter KRAVITZ,
Senior Specialist
Congressional Research Service,
Library of Congress, U.S.A.

Mr. Patrick LAWLOR, M.P.P.,
Chairman of the Select
Committee on the Ombudsman

Mr. R. ROBICHAUD,
Head of Simultaneous Interpretation Division
House of Commons, Ottawa

Friday, October 19, 1979,

Afternoon Session

—Summary—

Boren Format for Committifying Parliamentary Polarity (BOFOFOCOPAPO)

Dr. Boren presented the Boren Format for Committifying Parliamentary Polarity (BOFOFOCOPAPO). This involves the ponderistic prodigiality of fuzzification within the modal orbitalities of multi-syllabic interfacing and, hopefully, the establishment of a spirit of creative non-directiveness and bold irresolution.

Dr. Boren explained several techniques for maximizing the parameters of non-responsiveness: vertical and linear mumbling, simultaneous and sequential interdigitation, cattification, residuation and gruntifying.

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
FIFTH CANADIAN REGIONAL SEMINAR
FRIDAY, OCTOBER 19, 1979**

The seminar resumed at 2:45 p.m. at Ontario Place.

Hon. John Stokes: I would ask you to remain standing while I would ask the Honourable C.C. Fitih, who is the majority Government Leader from Ghana, to propose the toast to Her Majesty.

Hon. C.C. Fitih: Mr. Speaker, before I respond to your invitation, may I take just a moment to express the thanks of myself and my delegation for your kindness in inviting us to the seminar. From this seminar we have learned a lot which will be of invaluable assistance to us as we organize our own Legislature.

Before we arrived here we had heard a lot about you from Mr. James Aggrey-Orleans, the Acting Clerk of our House, whom you entertained so well earlier this year. We have come to feel a genuine friendship with all those we have met and we know that in the days ahead you will be thinking about us and encouraging us as we re-establish a democratic civilian administration after a long spell of military rule. We will draw strength from this knowledge. My friends and I will take home with us good memories of this seminar and we are firm in our desire to maintain our links with the CPA. We would like to express our thanks to all who have made our visit to this country possible, and our participation in this seminar so successful. In particular, we would like to mention Mr. John Holtby, the First Clerk Assistant, Mr. Mike O'Neill, and Dr. Graham White.

We would also want to give special thanks to the CPA, to its Secretary General, Sir Robin Vanderfelt, and Mr. Ian Grey, the Editor of Publications and Deputy Secretary General. Ghana, though a republic, recognizes the Queen as Head of the Commonwealth, so I invite everyone to join with me and drink the toast to the Head of the Commonwealth, Queen Elizabeth II.

Hon. John Stokes: Ladies and gentlemen, our luncheon speaker today is Dr. James Boren. During question period yesterday afternoon, he was noticed taking notes from the Speakers' Gallery which is a no-no. I have no idea what Dr. Boren is going to say but I offer a slight admonition that if anything should implicate the Speaker in any way, I do have the Sergeant-at-Arms standing by awaiting any eventuality.

Dr. Boren is President of the International Association of Professional Bureaucrats. He lives in Washington, D.C. where, as President of the Association, he from time to time presents the Order of the Bird to individuals and organizations in the governmental, academic or corporate bureaucracies who apply the principles of dynamic inaction and orbital dialoguing as the means of fostering creative non-responsiveness.

Dr. Boren is also a candidate for Vice-President of the United States. In declaring his candidacy, he indicated that he supports more red tape, although he did indicate that he was not opposing the cutting of red tape as long as it was cut lengthwide.

While Dr. Boren is an American, his wife, Alice, is a Canadian and she is the chief orchestrator of fiscal harmonics for the International Association of Professional Bureaucrats.

Dr. Boren, I invite you to enlighten those participants of our seminar at this time.

Dr. Boren: Mr. Speaker, Mr. High Commissioner, distinguished Speakers and Members of Parliament, ladies and gentlemen. This is indeed a great honour and privilege for me to be able to be with you for the next two hours and fifteen minutes to maximize the minimalities of non-directive communicative processes in order that the institutional parameters can be brought within the fuzzification of marginal pulp policies so that the ineffability of the projection systems can be moved with forthright fuzzification and brought to the residual of the nondirective (mumble).

The International Association of Professional Bureaucrats is a professional organization somewhat similar to the bar associations and the medical associations. We seek to give recognition to the outstanding

interdigitators of the world who can do nothing but do it with style and who, by doing nothing, can keep things from happening, thus preventing mistakes from being made.

You don't know how happy I am to be here with fellow professionals who can understand what I am talking about, and to be here in the homeland of my distinguished wife who moves the fiscality factors within the proper orbital elements of the (mumble).

We, the bureaucrats of the world, believe that progress is our greatest mistake and we believe that nothing should be done for the first time. That, of course, is the basis for our birth control program within our (mumble). We are the only ones in the world who can say absolutely nothing and mean it and we believe that when the orbitalities can move within the transitional element of the orbitempting when we can (mumble).

Now we have three basic guidelines that we use for long-range success. I would like to share these with you. I call them modestly the "Boren guidelines". I would like to suggest to all of you that if you can follow my guidelines, you can ultimately bubble to the top of any organization. It is the cesspoolian movement to the upper crust.

The first is: "When in charge, ponder". Many people have a ridiculous idea that when they're in charge they are supposed to do something. Ponder and ponder prodigiously. You know what I am talking about because constituents can come in with problems and you can use the ponderistic prodigiality and you can show concern, but you can do it without making any kind of a commitment.

Secondly, "When in trouble, delegate". I don't have to describe that to you. You are all masters of that.

And, thirdly, of course, is "When in doubt, mumble". Now within the bureaucracies, we have two basic kinds of mumbling. We have vertical mumbling and linear mumbling. Vertical mumbling is putting the multi-syllabic and multi-syllabatic interfacing in the word stringations into the proper projection system so that the wordational qualities can seem to project supernality of the comprehenchanti elements, whether you know what you are talking about or not.

We also use linear mumbling. I noticed in the reception period before, that there are many outstanding linear mumblers among you. Linear mumbling involves a transposition of tonal patterns. You can listen to a linear mumble and they will project (mumble) and occasionally a word will surface (mumble) and you fill in the gaps so (mumble).

I hope you are getting this for your record (mumble). Within the linearity element, most people who are in elected offices use this quite often. You can be at a reception and the office holder can see someone who they know, they recognize, may be have been a stong supporter and contributer, they can't remember the name. They can turn to the spouse and say, "Honey, you remember (mumble)."

Now we are moving within the transitional elements of bureaucratic interdigitation. We bureaucrats never change the course of the ship of state; we merely adjust the compass (mumble).

Now I want you to know I am rather shocked and amazed by what I have found here. I was looking forward to being here and I am not disappointed. It has been great to be able to meet so many distinguished people from around the world, but I want you to know that I am shocked because when I agreed to come to participate and to interdigitate—I'd better explain that interdigitation. Interdigitation is the professional term that we use for the interfacing of the digital elements of the hands. We have simultaneous interdigitation and then we have sequential interdigitation. No professional bureaucrat ever interdigitates over an inch. When you can see that, you know they are rank beginners.

But I thought that I was going to become a part of a movement to put creative non-responsiveness into its proper place, to help implement the spirit of bold irresolution. But when I arrived, I found that you were discussing committee processes as a means of making government more effective, as a means of making it more responsive, as a means of giving participation to the public, of looking at opportunities for redress of (mumble) various types of grievances. I found that you were moving in the wrong direction. I urge you to

recent and to recognize that the creative status quo should be the goal that we all should seek. You should learn to apply the principles of dynamic inaction, and that is doing nothing but doing it with certain style. And you should learn to love, cherish and hold forth those principles that will enable you to profundify simplicity, fuzzify your objectives and move with optimal horality to the non-trajectory system as it relates to the marginality of the inevitability of process (mumble).

I know that looking to the general system as it relates to the parliamentary processes—of course, you know it is over 1,000 years ago that the first Parliament there on the Isle of Man, rather exciting and over 200 years ago, in 1758 you had the Assembly in Nova Scotia. It was a tremendous tradition. But I think you should recognize that we should quashify the traditions to fit the harmonics of our non-directiveness and recognizing that the beauty of the intrusional besters can move effectively in these areas.

Now I want to share some of my thoughts on what I call the "Boren Format for Committifying Parliamentary Polarity", and I have an acronym for that. I call it BOFOFOCOPAPO. In most capitals, we develop the acronym first and then we develop the program to go with the acronym. Under BOFOFOCOPAPO, I would suggest that our greatest objective is tranquility, to provide the kind of tranquility that will not disturb the ship of state, and this is dynamic inaction. This comes from putting the fuzzification elements into their proper plane. Now you have your committees and your subcommittees. You talk about using committees and subcommittees to make indepth studies so that specific data can be developed so that all aspects relating to a piece of legislation can be analyzed and brought within the marginality of the amblyoptic application programs. We are not opposed to this as long as you are developing procedures and policies that we can homogenize, because I hope that you who are concerned with the parliamentary process will recognize that you don't really represent the power structure; we bureaucrats still run things.

You can come up with all kinds of policy pronouncements and it is no problem to us because we can adopt your new buzz words, regardless of what administration may be. We can hold it to our breast, we can love it and cherish it, and then we can homogenize the policies that you have enunciated. By the time it comes out for implementation, it will be the kind of policies that we want. It is no problem for us. We can—I call it the process of cattification. To cattify—now that is a Borenverb, c-a-t-t-i-f-y. That is not in the dictionaries yet but it is getting there. They are beginning to use it in Time Magazine, The Wall Street Journal, Pulse, Star, and others are beginning to use the verb. To cattify is the verb that describes the bureaucrat's ability to land on his feet regardless of what (mumble). It is the cattification factors (mumble).

We are not opposed to those of you who are interested in seeing that committee process can give greater knowledgeability, better information, can promote thinking because we know that the gestation period of an original thought is still pending within the bureaucratic structure.

We are not really concerned either about the fact that you are seeking to bring public participation under the element because we know that truth can be adjustive. We bureaucrats try to give recognition to this as we move within the general (mumble). We believe that bureaucrats serve bureaucrats and we believe that the spirit of non-directiveness can not only bring us into the type of (mumble).

I know you had some discussion about the Lambert Commission. We are not opposed to sunset laws because what does that really mean? That means that as of a certain date that a certain program or agency or organization or activity will be brought to an end unless you can show a real need for it. Since when have we bureaucrats not been able to show a need for what we have been doing all along? We are not even concerned about computers. Many people thought that the computers would be undermining the bureaucratic process, taking our jobs. We found that, first of all, it is possible to computerize indecision. Not only that, we found that we, the bureaucrats, can create new channels and new clearance procedures faster than the computers can pute. Now we are not concerned about these things. We are not concerned about re-organization.

Everytime there is a government re-organization this means that we have an opportunity to bring together old organizations that we just put a few layers on top of. They give us a chance for new growth. They've always grown. Bureaucracy, the world's second oldest profession, is here to stay.

Now we do give the Order of the Bird, Mr. Speaker. In the Order of the Bird, each one is a pot-bellied, featherless bird usually standing in a squatistic profile. They're made of metal and plastic, two to three feet long, two to three feet high, weighing from 30 to 40 pounds. The Order of the Bird—we have now given 55 in the almost 12-year history of our organization. The Order of the Bird is given to those organizations who apply our principles of dynamic inaction in an effective way. One of the more interesting ones we gave to two US government agencies, I might mention to you to give you a better understanding of our bird awards.

A few years ago a community located near Fort Worth, Texas, South Lake, Texas, had applied to Farmers Home Administration for some help with the water and sewage system. They got the forms and the guidelines, which went into the study mechanism. Finally, the officials of Farmers Home Administration said, "I'm sorry. Your community is too large for our program. You'll have to go to the Department of Housing and Urban Development for their program." Well, this meant, of course, that they have new forms and new guidelines, they had to recast the application. You understand, Dr. Kravitz, the kind of thing we would (mumble) here.

Finally, a year and a half later the officials of Housing and Urban Development said, "No. I'm sorry. Your community is not big enough for our program. You will have to go back to the Farmers' Home Administration." Well, this they did. There was a certain passage of time and, finally, the officials of Farmers Home Administration said, "I'm sorry. It is worse than before. You've grown some since you were here. Back to HUD" They went back to HUD, and this is where it orbitated, globated and almost residuated for three and a half years until finally the officials of Housing and Urban Development said, "No. You are still not big enough for our program. Not only that, we don't think you ever will be until you get a better water and sewage system in your town."

Well, we had our awards banquet in the ballroom of the National Press Club in Washington. We asked for the representative of Farmers Home Administration to please stand to be recognized and he stood, Mr. Dwight Calhoun, who was there representing Farmers Home Administration. We use a bagpipe as our official instrument. We think that air-baggification is appropriate for our group. And so the piper then piped up Mr. Dwight Calhoun from his seat and brought him forward to the head table. We presented him with his pot-bellied bird. He mumbled a few minimal mumbles and we piped him back to his table.

We called for the representative of HUD. No one had shown. We had to present that bird in absentia. We have a policy in our organization that when no one shows to accept the bird, we present it from time to time, and we make new announcements until finally someone shows to accept it.

I was privileged a few weeks after the original presentation to speak to the Washington Board of Realtors at a group of mortgage bankers' I had been tipped in advance that the Undersecretary of Housing and Urban Development would be in the audience. So in the middle of my speech, I was privileged to call him forth from the audience, I undraped the hooded bird I had with me and I made the presentation. The crowd was delighted, and he was stuck with the bird for the rest of the night.

We also gave the Order of the Bird to an automobile rental organization whose colours are yellow and black. They were confirming reservations for cars before checking through the computer systems to see that they had cars available. We gave them the Order of the Bird. They refused to accept it. We presented the bird in absentia. Then, in keeping with our policy, I did discuss the Order of the Bird to the Hertz Corporation on the Today Show, Good Morning America, Tom Snider's Tomorrow show, on CBC, 90 Minutes Live, on American Forces Radio Europe and on. I am pleased to tell you that last year, on September 30, 1978, the officials came down from New York representing that organization. They received the bird and they told me they wanted to get it out of circulation.

We gave the Order of the Bird to an educational institution. I'll not mention it. It is located in Blacksburg, Virginia. They refused to accept the bird. The students came to our banquet. We presented them with the bird. They took it back to campus and put it into a glass case at the student headquarters. That was in the end of May. Later that year, during the football season, that institution was playing the University of North Carolina and at half-time, they had what is known as Governor's Day activities. At half-time the band played magnificent martial music. The President of the university, the Board of Trustees

and the Governor of the state marched out with optimal dignity to the 50-yard line in the middle of the field. There was a microphone there. As they were marching out in a dignified fashion, the students were coming out from the other side of the field carrying the bird. They got there first. They took eight of the 11 minutes that were available in presenting the bird to the President of the university, and the Governor congratulated him for receiving the bird.

Just about a week and a half ago, we presented the Order of the Bird—our fifty-fifth—to Senator William Proxmire of Wisconsin. This was in recognition of his marginal contributions to the spirit of inquiring basic research. He did show and he accepted it in person. But I am not going into the rest of them. We do have one other organization we have been giving some thought to giving the Order of the Bird. This involved OSHA, Occupational Safety and Health Administration in Washington. There was a fellow who had a one-man mine operation in Arizona. He was digging coal out of the side of a hill and selling it in buckets out of the back of his truck. This OSHA organization said that he would have to have a hard-hat and a safety tie-line. That didn't bother him very much. He wasn't going underground of course, but he did that to comply with the law. But what really confused him was when the organization came back, the agency representatives, and said that for his one-man mine operation, he had to have a two-way radio communication system.

The first international award of our organization went to the municipal council of Dorchester, England. This involved a couple that petitioned the council to build a ramp over an unusually high curb. The workers showed up to build the ramp 18 years later on the eve of the wedding of the baby. They explained it by saying that it was a low-priority project. It is our feeling that any organization that can keep paper in orbit for that long without coming to the point of action warranted our bird award.

I would like to talk with you for just a few minutes about BOFOFOCOPAPO and the fact that interface avoidance is important. I recognize that you are trying to do things, but I suggest again that you are moving in the wrong direction. You should permit bureaucrats to residuate and you yourselves could occasional be residuate.

Now to residuate is another Borenverb. This is when you burrow into a fixed immovable position and keep a very, very low profile. We bureaucrats, whenever there is a change in administration or a change in government, residuate. We keep a low profile until the dust settles. Then we can peepistically look for a safe place to land. Residuation is a great skill for us. I'd like to suggest that in establishing committee objectives you learn to fuzzify your objectives. If you can fuzzify your legislative objectives, first of all, you can find that you can have them adopted quickly. Why, because everybody can interpret them to mean what they want them to mean. Then in the future, regardless of what happens, you can interpret whatever has happened to be whatever is best for you because you had the foresight to build in the adjustivity of interpretation by fuzzifying it to begin with.

Then we have a very important concept that I hope you will accept. To profundify or to profundicate are Borenverbs. This is when you use Roget's Thesaurus and other kinds of enrichment techniques to make simple ideas seem very profound. The only difference between to profundify and to profundicate is a matter of origin.

To profundify is used largely by graduates of Ivy League institutions, graduates of McGill University, the University of Toronto, the London School of Economics and Oxford, whereas to profundicate is used by graduates of agricultural institutions (mumble). I suggest that in your efforts you should recognize the importance of globatting. G-l-o-b-a-t-t. Be a globatt. Now this is when you look at the big picture in a professional way. It is obviously global in nature; and being global in nature, there are no corners into which it can be backed. The globalities of your projection patterns of legislative harmonics, I think can be of help to you.

You should also learn to encourage the completion of government forms by trashification. To trashify, this is when you can take a little two or three-paged report. You trashify it with irrelevant data, footnotes, appendices, maps, charts and graphs, and you can make a big thick report because you must recognize that those of us in the bureaucracies make our judgements based not on the weight of the logic of the report but on the weight of the report itself.

You should also learn to be able to express yourself with optimal thunderation. Now yesterday afternoon what a great thrill it was to sit there in the Speaker's gallery, Mr. Speaker. I really was not taking notes. I was just checking the attendance. To sit there in that gallery and hear that optimal orbitality of non-directive communication and to hear the thunderating that I heard showed there was a tremendous acceptance of the bureaucratic way. Because you see, you can thunderate. You can say marginal things with optimal resonance because we have learned that more arguments are won by thunderating than are won by the quiet voice of logic.

I was able to move and to hear what I thought was some of the most outstanding examples of gruntification. To gruntify, of course, is when you can select a particular thing and you bear down on it. I heard this yesterday in the discussions of the energy crisis that's moving with in the (mumble). You select a particular part that you wish to bear down on and you gruntify. you go huuuuuuuuuuuuuuuummmmmmaaaaaahhhh. Mr. Speaker, you have to be very careful when you are learning to gruntify because accidents can take place.

Finally, then we come to what I very modestly refer to as the Boren dictum. If you are going to be a phoney, be sincere about it. It is not that difficult. You learn to maximize that pupillary contact. You put a serious expression on your face, optimal sincerity and furrow the brow. You lean the head forward and then you move with it jowlistically and then you begin to move with the verticality and the linearity of the mumblistic projection pattern so you can show the sincerity. As you begin to do this and you're getting to the point you are about to run out of anything to say, then you begin, "I must say this."

When you are maximizing the pupillary contact, you just look into one eye. You can't look at two eyes, that makes you shifty you see. It has nothing to do with political philosophy, Mr. Speaker. The left eye maximizes and the right eye maximizes personal tendency but you maximize that pupillary contact and you move within the (mumble) (gesture) and you hhhuuuuummmmaaaaahhh. You are getting to the point where you have nothing else to say. You begin then to sincerely shake you head yes and, as you shake your head yes, they shake their head yes back to you and you've got it made from then on. There is no problem. This is the spirit of creative non-responsiveness and it is exciting to us.

I would like to share with you my organizational chart. I am running close to that timation factor but I do want to share with you my chart and my recommendations that you might wish to consider for reorganizing the legislative institutions as they move adjustively within this area. I would like to ask my charming wife to help me unveil this chart. I never felt that a two-dimensional chart could do the job.

I hope that you can see that. At the top of all organizations, you always have a few yo-yos and dingbats. That represents, of course, the P.T. Barnum philosophy of government, that there is a sucker born every minute. Then we have the public affairs service of the postal service telling you what a great job they're doing with the mail. A few years ago I ran a race with the mail from Philadelphia to Washington by horseback to prove that the pony express could beat modern mail. I started off on the Mike Douglas show. I beat all of the mail—some of it by as much as eight days. I want you to know in Canada what a magnificent job you are doing with the mail. You have your own postal codes. In the United States, we are limited to numbers. In Canada you have a letter and a number and a letter and an interstitial space. That is fantastic compared to those of us who just use simple numbers.

I had an occasion to write to the head of the postal service in Ottawa. I used the Canadian technique of little jingles to remember the postal code. I can tell you that the postal code of the head of the postal service is K1P 0C3—kick one package or crush three. It's a very simple jingle.

How great it is to be here in Ontario. I remember it wasn't too long ago that a fellow in this magnificent area received a computerized bill for \$00. He didn't owe anything so he threw the bill away. A little while later he got a notice "Please remit \$00." Again he threw it away. It went on until finally he received a letter threatening legal action. So what did he do? Showing his ingenuity, he sat down at his desk and he wrote a cheque for \$00 and sent it in. He received an acknowledgement and a thank you for his remittance.

On my organizational chart, as you may see, this represents the nocturnal activities which prevail in Capitol Hill in Washington. It could be in Ottawa, yea, even in Toronto. Here we have what I refer to—it doesn't come out very well—the gasification factors, that move (mumble). Within the bureaucracies we have what we refer to as the techniques of getting ahead. In a bureaucracy you can get ahead by plodding along. You plod. Others get along by plotting. We call this the plod-plot axis. Usually, the plodders get the short end of the stick. That is what is known as a bureaucratic shaft (mumble).

This side represents the general governmental approaches around the world to energy—that's a kind of a ding-a-ling approach. In times of great crisis, though, we know that it is important to show that we are doing things. We know that image is more important than performance. It is not the message, it is the roar that counts. And so to show that we can move, we have an optimization of the input-throughput but no change in output. (Boren demonstrates by way of ringing a bell.)

Mr. Speaker, there was no particular significance to the fact that it was the Ontario flag that was going around in circles.

I would be very pleased to take any questions that you might have to ask. I will be very glad, representing the bureaucrats of the world, to take your questions on any subject. I obviously have all of the answers. I can handle the elements of inflation no matter what the questions may be. Do you have any questions that you would like to ask on anything here?

Hon. Kwaku Baah: I see that you have passed around your newsletters but I notice that no two people seem to have the same copy. Can you give an explanation?

Dr. Boren: Yes, we call that security.

Hon. Kwaku Baah: I have an other one. The next one is more like a comic. I hope I'm not stepping on any sensitive areas but I think there is also in your profession something popularly called the Peter Principle. Now, don't move too fast.

Dr. Boren: I was just getting out of target range.

Hon. Kwaku Baah: Would you like to show some connection and tell the audience what it is?

Dr. Boren: Oh, yes, I'd be delighted to.

Hon. Kwaku Baah: It is only fair to me.

Dr. Boren: I would be delighted to. First of all, the issues of Mumblepeg were some back issues that I had and I gave everyone different issues, which tends to follow the bureaucratic principle of responsibility dispersal. It is a bit more difficult to target it in. But secondly, your question, would I comment on the relationship of my mumbling processes and the Peter Principle. Dr. Laurence Peter, the founder of the Peter Principle, founded Peter University. As you know, the Peter Principle holds that in every hierarchy a person tends to rise to the level of incompetence. Dr. Peter and I were friends for many years and he named me one of his two deans of Peter University. I am dean of the Graduate School of Bureaucracy at Peter University. Our acronym is Graduate SOB/PU

Two years ago I was able to make another conquest. I would like to ask to stand to be recognized my charming wife, Alice, who is the daughter of Laurence Peter of the Peter Principle. Alice, would you please stand?

We have merged levels of incompetence with adjustive mumble.

Mr. Anderson: At Peter University, do you graduate or peter out?

Dr. Boren: At Peter University, do we graduate or peter out? No we have a very special approach at Peter University. In the words of our *alma mater*. "On registration eve each freshman will receive the doctor's degree at dear, dear old PU." We give the degree first and then you get on with the learning process after we have issued it.

Any other questions?

Mr. Lawlor: You've had the incomparable privilege of listening to the question period in the Ontario Legislature. Have you any comments?

Dr. Boren: The question was, having heard the questioning period in the Ontario Legislature, did I have any comments. It was an inspiration to me. I saw maximized adjustivity. I saw the projection of semantical thrusts but I saw magnificent quagmarien adjustivity in moving out of the target area (mumble). It was very exciting to me and particularly to hear. It was bringing an inspirational quality to the drum-drum of a hum-drum (mumble). It had to with its hokumference element of circumferential orbitation.

Are there any other questions?

Dr. Kravitz: I understand that they use committees in the bureaucracy as well. What kinds of functions do committees have in bureaucracy?

Dr. Boren: The question is what kind of functions do committees have in a bureaucracy. I am glad you asked that question. We all know that in the bureaucracy you use committees to study things and, if you study things long enough, the problem may go away. We not only have perfected it to the point that we have study committees, but we have review committees to review the studies of the study committees and survey committees that make surveys of the review committees' reports. Then we make adjustive committee reports of the review committees' reviews of the study committees adjustive (mumble). For example, we use this in handling unemployment. If we get everybody to work studying unemployment, we can project it onward until we can put everybody to work studying unemployment. Any other question? I've made myself perfectly clear.

Mr. Robichaud: One of the motifs of the work of our parliamentary members this week was to acquire more staffs of bureau for their Committees. Is that the ultimate triumph?

Dr. Boren: The question is what about acquiring more staffs of bureaucrats for the committees. Absolutely. This is the great growth pattern. Dr. Kravitz can tell you that in the United States the staffs on the Hill have more than quadrupled in just a couple or three years.

Dr. Kravitz: They grew from 5,000 to 40,000 in one day.

Dr. Boren: From 5,000 to 40,000 in one day, Dr. Kravitz says. I knew that we were colleagues. We believe in growth maximization.

In one of my books, *The Bureaucratic Zoo*, I indicated some concern about the way in which the earth was moving. I talked about my search for the ultimate mumble. I remember having a particular vision as I was off looking in the distance at the globe. The earth was moving on its axis and around I saw a great pulsating mass of red tape, the red tape that we believe holds the world together. As the red tape was pulsating, I saw one hand reaching forth as if grasping for reality. Finally I decided that maybe the ultimate mumble might be the creak of the earth on its axis as it is brought to a halt. But I am still searching the real (mumble).

It has been a great delight to be with you. Let me shift gears for one minute to say that I really do give the Order of the Bird award. I have given 55, and this all came largely from my years as a senior foreign service officer of the US Department of State and with AID. I worked in two capacities, and it was an exciting thing. You understand what I am talking about, Mr. Williams (mumble).

The birds are given not only to governmental but to business and academic bureaucrats as well who do excessive non-directiveness in their projection elements of (mumble). We have given 55. My technique is to advise the organization or individual that they have been nominated for the bird, that 28 or 29 co-ordinating committees have approved the award and were hoping to have the final committee approval in two weeks when we would make a public announcement of the award. I used to give one week but with the state of the mail I now give two. If they take corrective steps and if they are in touch, I drop it. I do not go public. Otherwise, I do go public with a great deal of fanfare and we do present the birds.

As a result of the nominations, they have been able to have some policies done away with, some overlapping, and reporting requirements consolidated and quite a number of changes. As a matter of fact, there is one you might be interested in, National Airport, Washington, DC. Here in Canada, almost anywhere, people will accept US dollars. One could at one time fly to National Airport in Washington and go to get their car out of the parking spot and, if they only had Canadian money, it would not be accepted. You had to have US money. If this happened to be on a Sunday afternoon when no money was readily available for exchange, you had problems. So I nominated the rental organization, the parking area organization for the Order of the Bird, and we were able to bring about a change. They will now accept Canadian money in getting your car out of the parking lot.

We had a number of decisions. One was a case of a particular man. I don't get into many individual cases because you could become inundated with this. There was a fellow who worked for the US naval shipyard in Yokohama, Japan. Under the terms of his employment agreement, he had the right to naval medical benefits. He had to have a growth removed from his spine. There was slippage in the surgery. He lost the use of both legs. There was no question of the benefits that were due to him, but the big question was which of the two agencies would pay. I went back and forth from agency to agency with no decision for a period of nine years.

I learned about this in June. We got the documents, we verified the facts and we nominated the official I felt most appropriate for the Order of the Bird and in a week's time we had retroactive benefits for the nine-year period and medical continuance.

So I do try to use the Order of the Bird for constructive purposes. I would welcome any nominations that you have for the Order of the Bird. You have a copy of the Mumblepeg. It has our address. I am always looking for nominations and, if you have any to make, I would be very delighted to have your nominations.

Before closing, I want you to know how really delighted I am to be here. This is one of my favourite cities in the world and I enjoy it, not just because I was able to capture a charming Canadian to bring home with me, but we do spend a lot of time in this beautiful country. I do want to say that in my period of research prior to our marriage, darling, and it was all secondary research, I was doing some research into the subject of the bureaucrat and sex. I found that it was possible for people who wanted to enjoy themselves and still practice birth control without getting into moral questions could do so. But I also found that it was very simple because as long as one partner was a bureaucrat it would be acceptable because bureaucrats are great on procedures but very low on production.

Not only that, but bureaucrats I have found in my earlier research tend to make rather poor lovers, the reason being that they tend to want to make feasibility studies at every step of the way or, more succinctly, we bureaucrats rarely have sex with one another. What we do, we do to the public.

Hon. John Stokes: Dr. Boren, I couldn't help remembering a story I heard in Northern Ontario just recently when somebody had conveniently lost a plaque that was due to be unveiled at a very important occasion. It had been in transit for about three weeks. The chairman got up and said, "We have had a lot of dialogue lately about what we are going to do with nuclear waste. I've come to the conclusion that if we send 50 per cent of them by Canada Post and the other half by CN Express, they would be lost and we would never have to worry about it."

Thank you very much, Dr. Boren. I think we have learned a great deal from that, the principal lesson being that we need more committees of parliaments to keep track of fellows like you.

I want to invite Madam Speaker, Mrs. Edwards, to say a few words please.

Hon. A.M. Edwards: Thank you very much, Mr. Speaker.

Mr. Speaker, Your Excellencies of Ghana, Trinidad and Tobago and Jamaica, fellow parliamentarians, it is indeed a very great pleasure that I from a tiny dot in the world at this your Fifth CPA conference should be asked to come to the microphone and to speak a few words of thank you on behalf of the Caribbean visiting parliamentarians.

When you hear of the Caribbean, those of you who do not know it, may not know that we stretch over a wide archipelago of islands. We come from near South America, where you have the Republic of Trinidad and Tobago, whose participant is present here, then the state I represent, St. Kitts-Nevis-Anguilla which is one which is in association with Britain. Then we have the island of Jamaica which is an independent state and the largest of the British West Indies. We go around the Gulf of Mexico in the Central American States and we have another participant coming from Belize. Belize is a nation with full internal self-government. So you may not know that we are far, and far is a relative term, one from the other and so we appreciate, for no other reason, an opportunity like this which brings us together. But not only for us in the Caribbean, we thank you from Canada for this opportunity of sharing with you and learning from you. We see that although we are in different stages of development, you have developed, but we in the Caribbean are in different stages of development. There is one thing that we realize throughout the time that we are here, that our system in the varying degree springs from the mother Parliament of the British, the head of the Commonwealth of Nations.

We thank you for your hospitality and we know that a number of persons have been responsible for this. We go right back to the time of our arrival. We thank you also for the fellowship because we have learned so much informally out of the sessions as well as during the sessions. We thank you also for all the opportunities that you have given to us to learn from one another, to learn from you and even, Mr. Speaker, for the various forms of hospitality that you have given to us. We know that when we return to our several islands, we still have quite a bit to report about what we have learned, what is applicable to us and also what we may in the future be able to use.

As we make our plans, we know that we spring from the past. We enjoy the present and we look forward also to the future. To the Canadian government as a whole, we are extremely grateful. We all are a band of Christians and we believe in the Lord's Prayer. Every day we pray "Give us this day our daily bread". In all sincerity, when the flour mills roll in Jamaica, when they roll in St. Vincent and in all the other Caribbean or Caricom states, we thank you for the wheat that you send us. Every day when we eat our bread, we know that we are eating the wheat that has been grown in Canada.

We also thank you for various forms of development, educational and technological. For this exposure, we are indeed grateful and we thank you one and all.

If ever you have to come to the West Indies or to the Caribbean, will you please remember that Jamaica is not the only Caribbean island, neither is Trinidad. Many of you know the international airport in Antigua. But, remember, that just 20 to 25 minutes flight away there is the state of St. Kitts-Nevis-Anguilla. There are many evidences there for which we thank you as the Canadian people and the Canadian government as a whole. Thank you very much.

Hon. John Stokes: Thank you very much, Speaker Edwards. I would now like to recognize the Honourable John Brockelbank, the Speaker of the Legislative Assembly of Saskatchewan.

Hon. John Brockelbank: Mr. Speaker, Your Excellencies, ladies and gentlemen, I came here today a sceptic because of the guest speaker. His circumlocution of the issues today has convinced me that he has a point. I notice that the Boren shaft has a soft rubber point on it, but I got the point and I am sure that everybody else did here as well. I am a convert to the idea that Dr. Boren put before us today.

I have been to this, the Fifth Seminar of the Commonwealth Parliamentary Association, and I have yet to walk away from one of these seminars where I felt that I hadn't personally benefited from that seminar. This one is similar to the other four, I feel that I have benefited from this seminar.

I was looking at the seminar here and thinking of the past seminars. I was saying to myself, "What makes these seminars a success?" I think it is true in this seminar and in previous ones and the situation is even becoming more manifest as we go on in each seminar—that it is the drawing together of good resource people, an opportunity for delegates to be in formal sessions but to also be in informal session as well and, by far the most important, a drawing together of different strains from the Commonwealth. We take all these varied things and we mix them up together for a few days, we have an opportunity to discuss our common problems and successes in the parliamentary process.

If you are like me, when Speaker Edwards said, "So far apart," I thought, "But so close together." I think that typifies these conferences. We come from areas far apart, but really when we sit down and talk we find that we are very close together.

I was very pleased to hear our honourable visitor from Ghana express the views that their country would be supporting the Commonwealth Parliamentary Association. I am told that this is the first opportunity for the capital fund of the Commonwealth Parliamentary Association to be brought into effect. I am especially pleased that we in Saskatchewan made up our mind before this conference that we would support the Commonwealth Parliamentary Association capital fund. I am pleased to see that the Ghanian delegates or visitors to this conference are the first expression of the intent of that fund.

In conclusion, I would like to say a word about our host. I have known Jack Stokes for some time now. He and I are getting to be senior speakers around the circuit. I must say that your hospitality and the hospitality of the Commonwealth Parliamentary Association of the Ontario Branch is equal to or exceeds the hospitality we have witnessed in other locations in Canada. I think I can safely say, on behalf of all Canadians who are here, if not all people who are here today, that we certainly appreciate the generous hospitality of yourself and the Ontario branch of the Commonwealth Parliamentary Association. That hospitality is exceeded only by your good looks, Jack. I meant as a Speaker in your speaker's garb, of course. I hope that I have expressed adequately the feelings of the delegates here from other Canadian provinces as well as others who have had the opportunity to witness this seminar and hopefully benefit from its participation in the seminar. Thank you very much.

Hon. John Stokes: Thank you, John. We come with sadness I must admit to the final event of the Fifth Canadian Parliamentary Regional Seminar. From your comments informally, I know that we have achieved the objective of the seminar, which was to stimulate a consideration of committee work in the Canadian context. Some provinces felt that their committee system is not of the same type as some of the larger provinces, but I assure you that the explosion in committee work in this province has taken place rapidly within the last five years and you may be into a major committee system yourselves before you really know it.

It remains for me to thank all of the participants in the seminar, all of the resource people, and of course all of the staff of the Legislative Assembly who have worked so diligently on your behalf and on my behalf over not only the past week but the several months that it took to co-ordinate this seminar that it should be the success that I feel it has been. Those who have been involved are far too numerous to mention. Literally everybody in the assembly has had a part to play in some way or other at some time or other.

On behalf of all of us in the Legislative Assembly in the Province of Ontario, I want to thank all of you for your participation and express thanks to our guests from Ghana and the Caribbean for accepting our invitation to attend and to participate. I wish you all a safe journey home and I thank you very much for contributing towards the success of this seminar.

The session adjourned at 4:30 p.m.

Commonwealth Parliamentary Association

Fifth Canadian Regional Seminar

Toronto

October 15–19, 1979

BACKGROUND PAPERS



COMMITTEES IN THE ONTARIO LEGISLATURE

A Background Paper Prepared for the
Canadian Regional Seminar of the
Commonwealth Parliamentary Association
October 15-19, 1979

Graham White, Ph.D.
Assistant Clerk
Legislative Assembly of Ontario

COMMITTEES IN THE ONTARIO LEGISLATURE

Observers of the parliamentary scene are increasingly looking to strengthened committees as the only real hope of rescuing Parliament from its increasing irrelevance to the formation of public policy and to the exercise of governmental authority. Evaluation of this weighty thesis will not be attempted here; although this paper may contribute to the debate, it is rather less ambitious in scope and simply presents a description and an analysis of the committee system of the Ontario Legislature.

A Baedeker to Ontario's committees should prove of more than local interest on several accounts. The Ontario Government has grown in size and complexity to the point of raising serious questions as to the Legislature's capability of even keeping track of it, let alone controlling or scrutinizing it. This malaise of parliamentary government is, of course, hardly unique to Ontario. Neither the Legislature nor its committees have been impervious to these problems; indeed, both have undergone substantial changes in recent years, and the transformation continues. The Ontario Legislature is thus very much in transition and nowhere is this more evident than in its committee system. The changes wrought over the past few years are, not surprisingly, as notable for their failures as for their successes. Withal, the Ontario experience with committees is instructive.

The reforms and the changes in Ontario's committees are in part a response to the greatly heightened committee workload; in part they represent the impact of two minority Parliaments; and partly they stem from the Members' dissatisfaction and frustration at the committees' obvious inadequacies. On this last point, however, the Ontario experience demonstrates all too clearly that diagnosing committee ills is a good deal easier than prescribing effective treatment.

Setting and Background

The Ontario Legislature comprises 125 Members representing the nearly nine million inhabitants of Canada's wealthiest and most populous province. The Government, which is organized into 23 Ministries, three co-ordinating policy secretariats and nearly seven hundred semi-independent agencies, boards and commissions, spends close on twenty billion dollars annually and employs more than one hundred thousand civil servants (exclusive of teachers and hospital workers). Like its counterparts throughout the Western world, the Ontario Government is deeply involved in virtually every facet of the economy and the society. Under the Canadian Constitution the Ontario Government has far-reaching powers with particular jurisdiction over education, social services, health, transportation and municipal government.

Politically, Ontario is a specimen of that rara avis, an enduring three party system. The Progressive Conservative Party has formed the Government since 1943; for most of this period the Liberal Party has been the Official Opposition, but the New Democratic Party has usually been close on the Liberals' heels both in terms of seats in the Legislature and in terms of popular vote. The most recent election, held in June 1977, returned 58 Conservatives, 34 Liberals and 33 New Democrats. This election thus continued the minority government situation, which began in 1975 after better than three decades of majority government. The entire discussion of Ontario's committees must therefore be understood in this minority government context. Yet if minority government has

been a key element in fostering change in the committees, it is likely that the circumstances were such that important changes would have occurred even in a majority setting.²

Only the briefest outline of the history of Ontario committees can be sketched here, and even less space can be devoted to a history of the Legislature itself, but two points need to be made. First, until the 1960's, the Legislative Assembly was essentially a nineteenth century institution which met only a few weeks a year and which required only part-time attention of its Members. Secondly, whatever its accuracy elsewhere, it is clearly inaccurate to speak of a decline of the Ontario Legislature, for throughout its history it has been subject to overwhelming executive dominance.³

From its first session in 1867, the Ontario Legislature has employed committees, both standing and select. The differences between these is discussed below; for the time being let us equate select committees with temporary specialist committees and standing committees with permanent committees. Both are 'select' in the sense of being composed of only a selected group of Members (thankfully use of the technically correct appellation "standing select" committee lapsed some years ago). In that they have always been uniquely tied to particular concerns, select committees have changed a good deal less over the years than have standing committees. Hence this brief review will concentrate on the latter, though it must be noted in passing that select committees have historically been more important than their standing brethren.

Throughout the nineteenth century and until the 1960's, standing committees were typically very large (40 - 50 Members); they met infrequently and had relatively little business referred to them. Significantly, the busiest and most important committees were those dealing with Private Bills and with Railway Bills. Save such committees as Public Accounts, Private Bills and Standing Orders, standing committees were constituted on subject areas, for example, Agriculture or Mining. In 1964, the number of committees was reduced from 18 to 10, and some were substantially reduced in size; each committee typically encompassed several Government departments. Still, these changes made little difference, for the committees had little to do.

The workload of standing committees increased throughout the sixties - as did the business of the Legislature generally - and took a quantum leap in 1969 when committees began to consider departmental estimates. By 1970, the number of committees had grown to 16, while the average Membership had fallen to 27. In 1971, in anticipation of the reorganization of the executive into Policy Secretariats, the 16 Standing committees were consolidated into 7: Procedural Affairs, Regulations, Public Accounts, Estimates and three policy field committees: Legal Administration (more recently "Administration of Justice"), Human Resources ("Social Development") and Natural and Physical Resources ("Resources Development"). Procedural Affairs and Legal Administration sitting in concert constituted the Private Bills Committee. No Member could serve on more than one policy field committee, or more than one of the remainder. A change of some moment occurred about this time as years of pressure from the Opposition induced the Government to permit temporary substitution of Members on committees simply by notification of the Chairman rather than by order of the House. This was a great boon to the Opposition parties which were often left unrepresented in a committee if one or two of their Members were ill or otherwise occupied (often in another committee).

The basic alignment of standing committees established in 1971 remains, though some alterations have occurred. As the policy field committees became more heavily involved in estimates, the Estimates Committee became Miscellaneous Estimates, and then disappeared altogether, to be replaced by a General Government Committee. This Committee is given jurisdiction over Ministries which do not fall under other Committees, such as Treasury and Government Services, as well as the Provincial Auditor, the Ombudsman and the Office of the Assembly. In 1976, the Private Bills Committee was abandoned; private bills are now dealt with by the appropriate policy committee. The most recent change was the creation of a Members' Services Committee in 1977.

All formal restrictions have been removed, but overlapping membership is still avoided as much as possible in committee assignments. The motion setting up a committee specifies its membership; until 1976 this was done by a (Select) Striking Committee, but since it was all prearranged among the parties, the elimination of this procedure did not mark a substantive change.

In 1972, the House created an independent Commission on the Legislature (styled the "Camp Commission" after the Chairman, Dalton Camp) to review the functioning of the Assembly, with particular emphasis on enlarging the participation of Private Members in the governmental process. The Commission issued five reports between 1973 and 1975, and an impressive proportion of its recommendations have been acted upon.⁴ Of all the Commission's proposals though, those dealing with committees have enjoyed the least degree of implementation. To an extent the hesitance about putting the Camp proposals into practice reflects their radical nature and their far-reaching implications. The Commission recommended doing away with select committees, reference of legislation to "largish" (20 - 25 Members) ad hoc committees, creation of 5 small (7 - 8 Members) specialist committees to scrutinize estimates and to carry out special investigations and establishment of 11 Member Committees on Procedure and on Administration.

The select committee which examined the two final reports of the Camp Commission rejected its proposals for fundamentally restructuring the committee system. Instead, it recommended that the policy field committees be increased to twenty Members, and that subcommittees be struck to conduct special investigations. In addition, the select committee made a number of specific recommendations to improve committees' effectiveness, such as granting them the authority to determine when they are to meet. Significantly, the entire committee system is still - 4 years after the final Camp report - under active consideration by the Procedural Affairs Committee.

Committee Organization

Table 1 sets out some basic information on the standing and select committees of the Ontario Legislature. The data in the Table present a picture of committee activities during the period February 28, 1978 to March 5, 1979, that is the Second Session of the Thirty-first Parliament and the interval between the second and third sessions. The data on committee spending cover the fiscal year April 1, 1978 to March 31, 1979.

The figures in the column headed "Meetings" refer only to the number of days on which meetings were held; on some days, therefore, a "meeting" would consist of one sitting, normally 2 - 2 1/2 hours, but a substantial number of

"meetings" encompassed two, or exceptionally, three sittings. The message here is abundantly clear: committees are very busy indeed, and consume enormous amounts of Members' time.

In terms of committee size, it is admitted on all sides that the large policy field committees are too large and unwieldy for the effective conduct of business. Simply keeping these committees supplied with a proper complement of Members is a constant headache for the Whips, particularly the Government Whips, who have fewer backbenchers than either of the Opposition parties, but substantially more chairs to fill. The size of these committees relates far more to the political exigencies of striking an acceptable party balance than to any inherent advantage in 16 Member Committees. For standing committees, the opposition parties have equal representation, which together is just sufficient to out-vote the Government (thus 7-4-4, 5-3-3 and 3-2-2). On select committees, the typical situation is for the Liberal Party, the Official Opposition to have one Member more than the New Democratic Party, and for the Opposition parties to have the same combined one vote margin over the Government as in standing committees (thus 6-4-3 and 4-3-2). All this, of course, is exclusive of the Chairman who only votes to break a tie.

As is indicated in the table, chairmanships are divided among the parties in roughly equal fashion and are agreed upon by the usual inter-party negotiations. During majority government, only the Chairman of the Public Accounts Committee was a Member of the Opposition. The Vice-Chairman is elected by the committee and is typically from the same party as the Chairman. Save filling in for an absent Chairman, the Vice-Chairman has minimal formal duties.

A word of explanation is necessary on the calculation of committee expenses. A relatively recent development, attributed by some to the minority government situation, has been the increasing activity of standing committees between sessions and during recesses. This has led some Members to complain of being 'committed to death'. This particular form of death, however, has its compensation, for when the House is not in session, Members receive \$52 (\$62 for Chairman) for each day spent attending or travelling to or from committee meetings, \$27 a day for food and incidental expenses, plus travel and accommodation expenses. These perks also obtain for committee travel when the House is sitting. For a typical MPP, the per diem payments alone amount to some \$3,000 to \$4,000 a year. Thus the table shows both total committee expenditures, and expenditures beyond those paid to Members as per diems and expenses (at a rough estimate, per diem payments and travel and accommodation expenses were approximately equal).

Until the last year or two, subcommittees were something of a novelty in the Ontario Legislature. The use of subcommittees has increased strikingly in the space of a few months. Most committees now have steering committees, and on a number of occasions subcommittees have been employed to hear evidence outside Toronto; on one memorable day the Social Development Committee split, amoeba-like, into four subcommittees which were dispatched to far corners of the province to hold public hearings. Usually subcommittees consist of one Member from each party, and their business transacted in a fairly informal fashion. A recent report of the Procedural Affairs Committee exhorted recourse to subcommittees as means of dealing more expeditiously with estimates and with certain types of legislation, but this has not yet occurred. A certain reluctance to establish more

subcommittees is evident on the part of Members on both sides of the House, lest they become too independent and bring with them what are seen as the excesses which characterize subcommittees in the Congressional committee system.

The Standing Orders specify a quorum as a majority, but Chairmen often "see" a quorum when none exists; important matters are not usually decided without a quorum. In the present minority government context, however, the lack of a quorum is far less crucial to the conduct of committee business than the absence of one party. Rarely are meetings begun or significant matters resolved unless a Member from each party is present. It is up to the Members to draw the Chairman's attention to the lack of a quorum; this almost never happens.

No realistic figures are available as to attendance at committee meetings, for the Minutes record a Member as in attendance no matter how long he or she actually remained. Over the course of the mythical "typical" meeting, between two thirds and three quarters of the committee Membership will eventually turn up. At any given time, though, the Membership usually hovers at or just below a quorum, while fewer Members still carry the bulk of the debate and the work.

The practice of substitution of Members is at once essential to the operation of the Ontario committee system and one of the most serious problems bedevilling it. Given the relatively large number of committee meetings, the relatively small number of backbenchers, and the competing, quite legitimate demands on Members' time, it is essential that substitution occur. On some committees, substitution may only be made by order of the House, but on most committees, including the large policy field committees, a note from the party Whip to the Chairman prior to the beginning of a meeting serves to empower substitute Members with all the rights of regular Members. (Even this procedure is an improvement of the situation where no one really knew who the Members of a Committee were and "whoever walks by the committee room when a meeting is commencing may quickly find himself a member of the Committee".)

If substitution affords an essential element of flexibility, it also makes for serious inefficiency and lack of coherence. Committees are perpetually retracing their steps and rehashing arguments for the benefit of newly-substituted Members. Similarly, continuity of approach is extremely difficult to maintain if committee membership is constantly shifting, and the taking of decisions by frequently substituted committees has been likened to appearing in court and facing a different judge every day. To illustrate the magnitude of this problem, consider the fact that between February and June 1979, no less than 47 MPPs served as official Members of the Resources Development Committee, while another 7 took part in the Committee's deliberations without being officially substituted.

Two final points on organization. No formal proscription exists, but Ministers do not serve on committees. On the frequent occasions when they are before committees, though, Ministers are effectively treated as committee Members - but of course do not vote. Committees usually, though not always, meet in camera for drafting and considering reports; otherwise in camera meetings are very infrequent.

Standing Orders and Terms of Reference

The terms of reference for most committees are set out by order of the House at the beginning of each session. Thus Committees' existence and mandate are not entrenched in the standing orders; the entire committee system could be

radically revamped by simple motion in the House. The only exceptions are the Public Accounts Committee, to which the standing orders automatically refer the Public Accounts and the Provincial Auditor's Report, and the Statutory Instruments Committee which is required under the Regulations Act.

The order of reference for the policy field committees typically takes the following form: that the committees "be established ... with power to examine and inquire into all such matters as may be referred to them by the House with power to send for persons, papers and things". This raises two points of some moment. First, the committees may not legitimately consider anything not referred to them by the House. This prohibition against committees acting on their own initiative is normally observed, although some breeches have occurred; for example, late in the previous session, the Justice Committee made a report to the House recommending that it be authorized to investigate allegations of impropriety on the part of a former Minister. Of course, every committee from time to time strays into discussions which would not fall within a strict reading of its terms of reference. These minor transgressions are not at issue, but there has been some pressure, most notably from Opposition Chairmen to allow committees to order their own business, or at least for committees to be given broader, permissive, terms of reference, similar to those recently adopted at Westminster. The specialist standing committees already possess such general mandates; they are essentially free to consider any aspect of the broad range of topics falling under their jurisdiction. By way of illustration, the Members' Services Committee may examine any matter relating to services for Members.

The second important point in the terms of reference is the power to send for persons, papers and things, in accordance with section 35 of the Legislative Assembly Act. In the great majority of cases, the committee simply requests that witnesses - Ministers, civil servants or others - appear, or that documents be produced, and the request is granted. In most of the recent instances in which the committee's request has not been honoured, the committee was satisfied with the explanation proffered for non-attendance or non-production of papers or else did not feel inclined to pursue the matter. The committee does have the option, although it is rarely exercised, of obtaining a Speaker's warrant for the required documents or witnesses. The issuance of a Speaker's warrant, which is more than slightly out of the ordinary, follows a report from the committee and its formal adoption by the House. Select committees, which are not in a position to go to the House for action, since they usually sit when the House is recessed, are normally given authority to request the Speaker directly for a warrant. Standing committees which meet during House recesses are sometimes given this power as well.

Although the terms of reference do not mention the power to report, it is understood that committees may report to the House if and when they see fit. Similarly, save in the unusual event of a direct order from the House, committees are free to set their own priorities for various items of business referred to them.

Barely two pages of the Standing Orders relate specifically to committees, and a substantial portion of them is given over to procedure in Committees of the Whole House. Of course, the blanket directive in Standing Order 1 that the standing orders of the House apply to committees as well covers a multitude of sins, as does long-established tradition. Yet many grey areas remain, and minority government has brought a number of them to the fore. For example, the Standing Orders are silent as to the counsel of committee witnesses speaking or conducting cross-examination, and the precedents are mixed. In recent months this

question of the status accorded witnesses' counsel has arisen several times and has occasioned heated debate and ill feeling. Similarly, until the advent of minority government, the right of committees to meet at times of their own choosing was rarely a point of contention, and when it did arise, was quickly settled. By tradition, committees have been free to meet whenever the House is in session, but not actually sitting (including dinner recesses) but have required permission to sit concurrently with the House. With the heightened committee activity, and with every committee convinced of the primacy of its business, the House now sets out an explicit schedule specifying the times and days of the week when each committee may meet. This timetable is only in force for the periods when the House is in session.

Select and Standing Committees

The distinction between standing and select committees is rather less clear than first appears, or than it was only a few years ago. Standing committees are permanent committees, though their permanence, as noted above, rests more on the suffrane of the House than on any formal recognition in its rules. Select committees are appointed to enquire into special issues and once their tasks are completed they are dissolved.

Special enquiries were once almost exclusively the province of select committees, but standing committees have become increasingly engaged in special studies. Select committees are struck much less precipitously than in the past, but are rather longer-lived. Now many select committees in the past few years have indeed studied one particular problem intensively, reported, and departed the scene. Recent topics of such select committee concern have been health costs, layoffs in the nickel industry, highway transportation of goods, highway safety, utilization of educational facilities and land drainage; these committees lasted for one or two sessions. Other select committees have exhibited impressive longevity: the Select Committee on Economic and Cultural Nationalism extended over 4 years, and the Select Committee on Company Law has existed in one form or another since 1965. The Select Committee which oversees the operations of Ontario Hydro, the gigantic publicly owned utility, also threatens to become a permanent fixture. In an altogether separate vein, the Select Committee on the Ombudsman has been operating since 1976, and in all likelihood will continue indefinitely.

Other distinctions may be cited between standing and select committees, but these also fray somewhat around the edges. With occasional exceptions, select committees only meet when the House is not in session. In recent years, standing committees have been meeting with great frequency between Sessions and during recesses. Select committees are usually given the authority to employ staff, whereas standing committees are not usually so empowered; of the latter only Procedural Affairs, Resources Development and Statutory Instruments are at present authorized to have staff. Generally speaking, substitution of Members on select committees can only be done by House Order, but, excepting the Procedural Affairs Committee, substitution on standing committees requires only written notice in advance of the meeting. Finally, Chairmen of standing but not select committees receive an additional annual indemnity, currently \$3,000.

Policy Field Committees

As the figures in Table 1 demonstrate, the policy field committees are the workhorses of the Legislature, although on some occasions they may also be showhorses. Of the 264 meetings held by these committees, 102 were spent on estimates, 104 were given over to legislation, and the balance, 58, were devoted to

special investigations, chiefly consideration of annual reports of various Ministries and boards. None of the other committees considered either estimates or legislation.

At first blush, the policy field committees seem ideal vehicles for the Legislature to cope with the complex and highly interrelated issues of modern government, as well as for focusing and honing Members' expertise. Sad to relate, however, the policy field committees, like the Toronto Argonauts, look good on paper, but fall short of expectations. Since it has proved more difficult than originally envisioned for the policy secretariats to coordinate policy, it is scarcely surprising that the parallel legislative committees, lacking permanent staff support, are unable to function as effective forums for integrated analysis of policy. The policy field committees are almost never asked to review broad policy concerns relating to several ministries; rather they deal with individual bills, estimates and reports on isolated aspects of government policy. The practice of substitution also tells heavily here; as the subject matter before a committee changes, so too does its membership. Opposition critics and other interested Members are substituted for 'regular' Members, so that continuity is sharply limited. Continuity and coherence of analysis are still further reduced in that substitution is as often employed simply to ensure that party numbers are maintained as to bring the expertise of particular Members to bear.

The most telling illustration of the malleability of the policy field committees is the checkered career of the Residential Tenancies Bill. In early 1978, the Government brought down a green paper on rent review and landlord and tenant matters. The paper was exhaustively studied by the General Government Committee (the Social Development Committee, the more logical forum, was knee-deep in Estimates at the time). In the Fall, the ensuing legislation was referred to the Social Development Committee for clause-by-clause study. When the House prorogued at Christmas, with much still to be done, the Bill was shuffled back to the General Government Committee. In all three episodes, however, most of the principal players remained the same, so that the shift of committees was of nominal significance only, nothing more than a change in labels.

If the policy field committees are rather less than was originally - and impractically - hoped, there is no evidence of any strong pressure to do away with them. They do render legislative business manageable; certainly in a House with fewer than 100 Private Members they have important advantages over the alternative of a dozen or more specialist committees. All the same, some undercurrents of regret have recently been felt at the amorphous nature of the policy field committees compared with the expertise and interest generated in the old specialist committees; doubtless this nostalgia owes something to the mellowing influence of time.

Resources

The resources available to committees have been greatly enhanced over the past few years, yet this remains a decidedly weak spot in the committee system. Physical facilities for committees are adequate, if unspectacular. Meetings are held in five rooms capable of accommodating up to 3 score spectators (finding people to put in the seats is usually more of a problem than finding seats to put people in). The appointments of most of these rooms are, at best, modest, though improvements are in train; the rooms are equipped with electronic recording equipment, and by and large serve their purpose satisfactorily. Several committees have small offices, which are scattered throughout the Main Parliament Building and nearby Government office buildings.

All committee proceedings, save those held in camera are electronically recorded. Consideration of estimates is printed in a format identical to the House Hansard; in other circumstances, the committee may direct that a full printed Hansard be provided, or that a rough, mimeographed transcript ("Instant Hansard") be made, or that no record be kept. Committees are loathe to authorize the substantial expenditure for full Hansard service since the demand is usually very low, but they find the transcripts extremely useful, so that most committees opt for an "Instant Hansard" transcript. These transcripts are precisely that -unofficial transcripts which do not have the imprimatur of the formal Hansards. Even an unofficial transcript is much to be preferred over the only recently abandoned situation in which virtually no record of committee proceedings was kept. Even now, however, public access to committee proceedings is extremely limited, for only the Provincial Archives and the Legislative Library regularly receive committee transcripts; public demand for transcripts has never been strong, but then public awareness of their existence is limited in the extreme.

As noted earlier, most standing committees do not usually have permanent staff, nor for that matter do they often have even temporary staff. The Procedural Affairs Committee has a researcher and one clerical worker, the Statutory Instruments Committee has part time counsel, and other standing committees have either part time or temporary clerical assistance, and the occasional services of consultants or researchers hired on short-term contracts for specific tasks. The Provincial Auditor attends all meetings of the Public Accounts Committee, and although his report serves as the committee's basic working document, without which it would be helpless, he must assume an essentially passive role. Each committee has a clerk assigned to it on a regular, if not always full time basis; the nature of the clerk's position, however, precludes his taking on other than administrative and procedural duties.

Select Committees typically acquire expert staff to conduct and evaluate research, to lead questioning in hearings and to write reports. In addition to high-priced consultants, select committees have become caught up in what has been styled 'the cult of counsel' - the view that no self-respecting select committee can do without legal counsel, even when legal matters are only of secondary import. Few around Queen's Park would dispute the contention that the most effective (and most interesting) committee work is done by select committees and further that this would not be possible without expert staff. Fears are sometimes expressed, though, that some staff acquire an unwarranted and unhealthy influence over their committees. A further problem is that select committee staff are invariably brought in from outside the Legislature, so that their expertise in meeting the truly unique needs of select committees are lost to the Legislature when the committee is finished. This approach does, of course, permit the committees to hire, on a short-term basis, the best people available.

Committees of the Ontario Legislature travel extensively throughout the province to hold public hearings and to examine problems first-hand. Less frequently they travel outside Ontario, occasionally outside North America, to gather information.

The expenditures of the various committees for the fiscal year 1978 are set out in the table. In order to convey an idea of committee spending on staff and services, the figures are presented shorn of expenses directly paid to or on behalf of Members. The "Expenses on Services" incurred by committees include all payments other than those to Members. Although "services" thus includes costs of printing, long distance calls, supplies and the like, by far the

largest component went towards staff salaries and consultant/counsel fees. The figures presented in the table do not reflect the salaries of personnel in the Clerk's Office or in Hansard Office, nor do they include Hansard printing costs, for none of these are charged against the committees. Committee spending on staff and services represents less than 1/200th of 1 per cent of the expenditures of the government they are attempting to scrutinize. (The Assembly accounts for approximately one-tenth of one per cent of the provincial budget.)

The topic of committee finances raises the key issue of the independence of committees in setting their own budgets. This budget-setting process is very much in a state of flux, and constitutes a point of some contention in the present minority setting. The process currently runs something like this: the Chairman draws up a proposed budget and presents it to the committee; the committee rarely gives it more than perfunctory attention, though occasional cuts are made (recently the Hydro Committee, after much wrangling, cut approximately \$50,000 out of its consultants budget). Once the committee has approved the budget, it goes to a Board of Internal Economy, chaired by the Speaker and composed of three Ministers and one representative from each party caucus. The inclusion of private members (Government and Opposition) represents a fundamentally important breakthrough into the crown prerogative in terms of House finances.

Legislation

The place of standing committees in the Legislative process may be summarized by paraphrasing a famous Canadian dictum: committees if necessary, but not necessarily committees. In the second session of the Thirty-first Parliament 22 of 125 government bills passing second reading were referred to standing committee. Since 50 of these were ordered for third reading directly after second reading, this meant that substantially more pieces of legislation were handled in Committee of the Whole than in standing committee. (Select committees have occasionally been struck to consider legislation, but this has not been done for several years.)

The government might be expected to prefer to keep bills in the House, where its command over the order paper gives it a far surer control of a bill's fate than is possible in standing committees. Only rarely, however, has the government balked at opposition requests for bills to go to standing committee. Due to this generally compliant stance, only infrequent recourse is had to a new provision in the Standing Orders which permits 20 Members to send a bill to a standing committee (though the choice of committee is still left to the Minister). Standing committees are not employed more often to deal with bills in part because of the crush of business weighing them down, and in part because the figures cited above are somewhat misleading. Although fewer than one bill in four is referred to standing committee, these tend to be the most important, controversial and complex; with few exceptions, bills which remain in the House are fairly routine.

Committees are not only better suited to the tedious slogging of clause-by-clause study of major bills than is the House, but they also permit public participation. In the most recent session public hearings were held on 11 bills (6 of these, which dealt with childrens' services, were grouped as a package). For such significant and detailed bills as those on occupational health and safety and on residential tenancies, dozens of witnesses were heard and hundreds of submissions received. Although the strains on Member's schedules and patience may be

formidable, these exercises in public access to lawmaking are of great importance, not only in making for better, more responsive legislation, but also for bolstering public familiarity with and confidence in the parliamentary process.

Of the dozen Private Members' Bills ordered for committee following second reading, five went to standing committees, but only one was considered; it was reported from the committee, but not called for third reading.

As an experiment in 1978, a government green paper on rent control was sent to standing committee for study. Although the committee thoroughly examined various policy options, and had some impact on the subsequent legislation, the experiment was only a partial success. Committee Members suffered through precisely the same arguments and heard from many of the same witnesses when they considered the bill as they had when they studied the green paper. As a result of this exercise, however, Members in all parties are coming to view favourable changes which might allow public hearings on the subject matter of major bills after first reading, as is occasionally done in Quebec .

Estimates

The current Standing Orders provide for up to 420 hours for consideration of estimates and the lion's share of estimates are done in the policy field committees (in 1978 slightly less than 100 hours were done in the House, approximately 250 hours in the standing committees). On occasion interesting and important things happen in Estimates, but for the most part they are mind-numbing exercises in tedium which serve little point.

Approximately twenty hours are allocated to the study of each Ministry's estimates. Most of this time is taken up with questions and criticisms of Ministry policy by the opposition critics (perhaps augmented by a few interested Members) and the defences or explanations proffered by the Minister, who is personally present through the entire exercise. In these discussions/confrontations, the critics are hopelessly outgunned; for support they normally have to rely on one part time caucus researcher, whereas the Minister is surrounded by as many as two dozen information-laden officials. Ordinary Members' participation in Estimates debates is typically restricted to asking for the record a few questions relating to local problems and receiving a quotable reply from the Minister.

If, at the end of the allotted time, not all of the Ministries' estimates have been passed, they carry automatically. This is less of a travesty than first appears for the debate only infrequently touches upon actual expenditure estimates ("why are you spending x dollars on this? are we getting full value for this money?"); attention focuses instead on policy. Even in the minority government context, attempts at reducing items of expenditure are exceedingly rare. As a vehicle for in-depth examination of policy, estimates are sometimes of value, though often-times the debates are rambling and disjointed in the extreme. Moreover, other mechanisms are available for committees to discuss policy more effectively.

It is all but universally agreed that estimates constitute one of the most serious problems of the Ontario committee system. By eating up so much time, they clog the entire system, without even doing what they are supposed to be doing. Like the weather, though, everyone complains but no one seems to be able to do anything about them.

Special Studies

One of the strengths of the Ontario committee system has been the success of its special studies. Most select committee work is of this nature, and indeed this is a principal reason why select committees are felt to be more effective than standing committees: they have clear mandates to study particular topics intensively, they have expert staff to assist them and their recommendations frequently find their way into policy. To an increasing degree, however, standing committees are launching into special investigations. A key element here is a recent change to the Standing Orders permitting twenty Members to refer a Ministry or agency annual report to committee.¹⁰ This vehicle has been employed to allow committees to focus on single topics, under the guise of examining a wide-ranging report: health insurance premiums, 'acid rain', hospital closings and pollution control orders have all been subject to close study in committee in this fashion. These special studies, which consume substantial blocks of time, (see Table) are a major factor contributing to the overloading of committee timetables, yet agreement is widespread that they are far more interesting and of much greater political import than consideration of estimates.

Not surprisingly, committees attract a good deal more attention when they are engaged in special investigations than when they consider estimates or legislation. Not only do these special studies serve to generate and focus public interest in particular problems (and not always are these partisan political issues), but they also allow the Members to develop sometimes formidable expertise in a certain area and give them a genuine sense of contributing to the formulation of public policy. A case in point was the work of the Select Committee on Highway Safety. The committee's studies and deliberations lead to important improvements in all manner of road safety and heightened awareness on the part of Members and the public alike of the need for traffic safety. An even more significant illustration is the work of the Select Committee on Company Law which has played an integral part in a full-scale overhaul of great chunks of the province's corporate legislation.

An unusual special investigation is written into the terms of reference of the Procedural Affairs Committee. The Committee is charged with examining a large number of agencies, boards and commissions "with a view to reducing possible redundancy and overlapping". In 1978, the Committee called 14 agencies before it and produced a 25-page report recommending changes to particular boards as well as changes in the structure and administration of all provincial agencies to enhance their accountability and responsibility. This report was debated and adopted by the Legislature, and is being implemented by the Government.

Lest an erroneous impression be left as to the efficacy of special studies, it is well to add that their reports and recommendations are sometimes left to languish on the proverbial dusty shelf. The select committee on Inco and Falconbridge (employee) layoffs, by way of illustration, has had no discernible impact on Government policy. Reports of special enquiry committees are not, of course, binding on the government, and moreover, it seems clear that many select committee recommendations have been rejected by the government after careful, serious consideration. Moreover, even if their proposals are not implemented the very fact that these committees were able to air particular issues is itself of some importance.

Finally, a word may be in order on the reports produced by committees conducting special enquiries. Whereas committee reports on legislation and estimates are standard in form and very brief, reports on special topics may be very substantial, running on occasion, to hundreds of pages of recommendations and background information (but not committee proceedings). The two-inch thick reports produced periodically by the Select Committee on Company Law are ponderous going for the uninitiated, but essential reading for those interested in, for example, the insurance industry or the regulation of securities. In a similar vein, the Select Committee on Economic and Cultural Nationalism published a virtual library of substantial research reports on specialized topics related to the nationalist question.

The Chairman

Conventional wisdom portrays the Chairman of a Congressional Committee as a feudal baron holding unrivalled sway over his fief, and the Chairman of a British Parliamentary Committee as neutral arbiter who does little beyond keeping order. Both views are of course greatly over-simplified, and neither is an accurate guide to the key position of committee Chairman in the Ontario Legislature. The Chairman has available, should he care to exercise them, a substantial array of subtle yet effective powers. Since Opposition Chairmen are more concerned with maximizing their influence, this assessment is heavily coloured by the prevailing minority situation, but it remains fundamentally true for all Chairmen. Although his impact may be much less evident than that of an Opposition Chairman, an adroit Chairman from the Government side can be very effective in keeping contentious issues out of harm's way and in expediting the Government's programme.

In formal terms the Chairman has sharply limited powers; save in the event of a tie, he is not even entitled to vote. His influence reflects in part his skill in running a meeting - knowing how and when to cut off certain Members, how to steer debate around or towards particular topics and the like. The Chairman's power, if such a distinction can be drawn, stems principally from the fact that he is by default left with the responsibility for orchestrating the committee's affairs. Other committee Members lack the time and the inclination to take the lead and are usually content to deal with matters as they are presented to them. This is not to suggest that committee Members will not take a keen interest in the approach taken to important, controversial issues. On less crucial matters, however, the Chairman's guidance of committee business usually prevails, and oftentimes the cumulative effect of small unseen decisions may be very significant indeed.

The Chairman is typically given discretion to prepare committee budgets and is responsible for presenting and defending them before the Board of Internal Economy. The Chairman also has signing authority for committee bills and Members' expense accounts. Another of the Chairman's important prerogatives is his responsibility for setting committee agendas. Thus topics and witnesses which the Chairman sets down for consideration will be heard, whereas matters he omits will not be considered. To be sure, rarely will any Member's desire to examine a particular topic or hear a specific witness be turned down, but such desires are more the exception than the rule. Depending on the circumstances and the personal style of the Chairman, he may be content with a largely passive role. Active participation by a Chairman of times conflicts with his responsibility as a neutral presiding officer; most Chairmen are sensitive to this dilemma, and strive to be fair, if not always neutral.

Though the Chairman is by no means given carte blanche, he is often the key figure in hiring staff. Moreover, although committee staff are highly responsive to requests and suggestions from all committee Members, in practice, they take their basic direction from the Chairman. Committee reports are usually prepared by the Chairman or under his direction, and if draft reports are subject to keen scrutiny and to wholesale revision by committee Members, still a draft report is a powerful device for structuring discussion, simply in terms of the issues it highlights or fails to mention.

Clearly, a Chairman must bow to the wishes of a determined committee. In the nature of things, however, clear and firm direction to a Chairman is uncommon, so that he exerts substantial influence over the committee and its affairs.

Once a committee has settled on a report, the Chairman brings it to the House. He may simply present the report, he may request that it go on the order paper for "consideration" (i.e., debate but no action), or, in a recently developed procedure, he may move the report's adoption, the order for which is carried on the order paper and called in the same fashion as a government order. In choosing one of these options, the Chairman is directed by the committee, but an astute Chairman may have a decisive influence on the course of action followed. When committee reports are considered, or the motion for adoption debated, the Chairman is the lead-off speaker.

The Camp Commission recommended that committee chairmen move adoption of reports as a matter of course. Although not all reports are moved for adoption, many are. The Government is under no formal obligation to call these reports for debate, but usually does so within a reasonable period. Given

the condition of minority government, many of the recommendations of adopted reports call for actions about which the Government is unenthused, if not vehemently opposed. Thus the legal status and the political impact of adopted reports has become a matter of some contention. Some initial skirmishes have occurred, but the issue has not yet been clearly joined.

The 'average' Ontario committee chairman has something less than two years experience as chairman. In 1977 a Speaker's Panel of Chairmen was established as a forum for discussion of the procedural and administrative problems encountered by chairmen. It was also expected that the panel would provide a means of sorting out committee schedules so as to avoid conflicts. To date, however, the activities and impact of the Speaker's Panel have been minimal. This panel, it might be noted, is composed of current Chairmen, rather than of Members from whose number Chairmen are selected, as in Britain.

The Partisan Setting

No one without the novelist's talent for portraying character and circumstance can convey adequately the atmosphere and activity of an Ontario committee meeting. A few remarks will be ventured, however, relating to informality and partisanship. The typical meeting is highly informal: Members are arrayed along long tables piled high with documents and coffee cups; where Members sit is dictated as much by the vagaries of chair availability as by partisan territorial imperatives, so that in many cases no clearly demarcated physical divisions separate the parties, as in the House. They do not stand when speaking, and frequently break into one another's remarks with long questions or comments. Members, legislative staff, spectators and the occasional television cameraman

wander freely about during meetings creating a far greater sense of immediacy and activity than is possible in the more dignified, controlled setting of the Chamber. No limits of any kind restrict Members speaking and questioning, and pressure from fellow Members is not always effective in curbing loquacious speakers.¹²

Partisan clashes may be every bit as rancorous and seemingly pointless as in the House, but in general the atmosphere in committees tends to be far more harmonious and conducive to co-operation. Issues are more likely to be discussed on their merits, with an amicable give and take of ideas, than in the House. In some measure, this may reflect the fact that to a surprising degree, party leadership, through a combination of benign neglect and faith in the Members, allows its Members fairly free reign in committee without issuing detailed or explicit directives. On matters not central to party policy, voting across party lines is a fairly frequent occurrence (standing as both cause and effect to this is the infrequency of recorded divisions in committee). Members often feel that they can make important contribution to the conduct of public business in committee, and this too enhances the tendency to leave posturing aside and get on with their work. For all this, however, the primal reality of legislative committees is that they are composed of party politicians engaged in political work. What has been styled the 'dilemma' of such committees in Ottawa applies with equal force in Ontario:

On the one hand they have been expected to be non-partisan and develop a corporate identity of their own, while on the other, most of their work has been on the government's program, which is a natural focus for partisan controversy.¹³

The prominent fashion in which committees have come to figure in the plotting of party strategy is very much the measure of their greatly enhanced importance. The Government, for example, may be concerned to ensure that certain issues or bills are kept away from a specific committee (or from committee consideration of any kind), while the Opposition may be manoeuvring to bring particular bills or reports before a given committee, or see that certain matters receive high priority once they are referred to committee.

Conclusion

As with so many Canadian institutions, the committees of the Ontario Legislature are hybrids. Their structure and formal trappings are essentially British, yet their activities reveal definite American influences; as well, certain of their features are unique to Ontario. Perhaps the clearest point to emerge from this review of the Ontario committee system is the magnitude of changes which have occurred in the past few years together with the strength of forces pressing for still more far-reaching changes.

If every Parliament is in some measure unique, and must therefore look to its own traditions and circumstances as it confronts the future, it is often useful to consider the experiences of other legislatures in facing what are, after all, essentially similar problems and prospects. This sketch of the committees in the Ontario Legislature is offered in this context.

1. Committees, in this paper, do not include committees of the Whole.
2. Graham White, "Teaching the Mongrel Dog New Tricks: Sources and Directions of Change in the Ontario Legislature", Journal of Canadian Studies (Summer, 1979), p. 117-32.
3. F.F. Schindeler, Responsible Government in Ontario (Toronto: University of Toronto Press, 1969).
4. Ontario Commission on the Legislature, Reports.
For a review of the Commission's work and the progress of its implementation, see Graham White "The Ontario Commission on The Legislature" Canadian Journal of Political Science (forthcoming).
5. Legislative Assembly of Ontario, Standing Procedural Affairs Committee Report on Subcommittees (May, 1979).
6. Ontario Commission on the Legislature Fourth Report (September, 1975), p.67.
7. The Public Accounts Committee and the Procedural Affairs Committee are established for the life of the Parliament, the former in accordance with Standing Order 91.
8. Writing of the Legislature in the 1960's, Schindeler observed: "it is a well-established practice for some standing committees to meet without having any specific matter referred to them and to deliberate on matters coming within the general scope of the subjects for which they were created." Responsible Government in Ontario, p. 100.
9. The language employed - "for which Mr. Speaker may issue his warrant or warrants" - gives discretion to the Speaker, but a warrant has never been refused.
10. Graham White "An Important Procedural Innovation in Ontario" Canadian Regional Review (March, 1979), p. 17-20.
11. Ronald D. Lambert, "Canadian Nationalism in Ontario: A Review of Two Ontario Government Inquiries", Canadian Review of Sociology and Anthropology XIV (August, 1977), 347-52.
12. The Public Accounts Committee has recently adopted an informal 10 minute limit on Members' questioning, with mixed results.
13. C.E.S. Franks, "The Dilemma of the Standing Committees of the Canadian House of Commons", Canadian Journal of Political Science IV (December, 1971), p.464.

TABLE 1
 COMMITTEES OF THE ONTARIO LEGISLATURE
 Second Session, Thirty-First Parliament (1978)

	<u>Members</u>	<u>Chairman*</u>	<u>Meetings</u>	<u>Total Expenses</u>	<u>Expense on Service</u>
Resources Development	16	PC	73	\$ 33,863	\$ 10,421
Social Development	16	Lib	71	32,721	12,081
Administration of Justice	16	NDP	81	60,688	19,451
General Government	16	PC	39	76,978	46,011
Public Accounts	12	Lib	19	5,266	641
Procedural Affairs	8	NDP	44	63,340	44,801
Members' Services	8	Lib	15	-	-
Statutory Instruments	8	PC	17	16,141	15,441
Ontario Hydro Affairs**	14	NDP	56	495,899	415,461
Company Law**	14	Lib	37	229,144	164,481
Ombudsman**	10	NDP	38	113,477	69,451
Health Care Costs**	8	PC	32	88,901	64,091
Inco and Falconbridge Layoffs**	18	PC	14	a	a

* - parties: PC Progressive Conservative
 Lib Liberal
 NDP New Democratic Party

** - denotes select committee

a - all expenses of this committee were incurred in fiscal 1977

**FOR WHAT ITS WORTH:
PARLIAMENT AND THE TAXPAYERS' DOLLARS**

A Background Paper Prepared for the
Canadian Regional Seminar of the
Commonwealth Parliamentary Association
October 15-19, 1979

Terry Hall
University of Toronto Law School
Canadian Parliamentary Intern, 1977-78

**FOR WHAT ITS WORTH:
PARLIAMENT AND THE TAXPAYERS' DOLLARS**

In Canada legislators and citizens alike have sensed that parliamentary scrutiny of expenditure resembles a watchdog baying at the moon. Although government spending and financial decisions are seen and felt by all, Members feel frustration that their influence in this area is marginal at best. This state of affairs is hardly unique to Canada, and indeed many governments throughout the world have implemented reforms of their budgetary and estimates procedures. Others, like Canada, feel the need for reform, yet are unsure of the path to choose.

This paper presents some of the issues central to parliamentary involvement in financial matters and discusses some proposals which have been suggested or actually instituted in this field. The first section considers problems likely to arise in any jurisdiction. For example, this section looks at the implications of the conflict between an effective parliamentary control of the purse-strings and the government's role in setting policy, managing the economy and generally governing. Three goals are proposed for any reforms: accountability, control and flexibility. The following section examines the problem in a Canadian context, and other, shorter sections examine recent experiences and reforms in Britain, New Zealand and the United States. (A companion background paper considers in some detail the response of West Germany to these problems.) The paper embraces but is not restricted to the role of committees in parliamentary evaluation of spending and finance. Whether or not the role of committees should be enhanced depends on the strengths and weaknesses of current procedures and alternatives to them.

PART I

THE NATURE OF THE PROBLEM AND THE ROLE OF THE MEMBER

In constitutional theory, one of Parliament's longest-held and most fundamental powers is its hold over the purse-strings. In Canada, centuries of British practice are reaffirmed by section 54 of the British North America Act:

It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Import, to any purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address or Bill is proposed.

That the current practice departs from this theoretical form of control is indicated by the federal Auditor-General's warning in his 1976 Report: "I am deeply concerned that Parliament - and indeed the Government has lost, or is close to losing effective control of the public purse".

Parliamentarians are expected by the voters to keep tabs on, if not firmly control, the multi-billion dollar decisions of modern government. Instead, however, elected Members find their influence over public finance severely circumscribed by the realities of cabinet government and party discipline. Parliament's grip on the

purse strings is weakened by the importance of expenditures and budgetary measures as instruments of the government's fiscal policy. A lack of quality information relating to policies and to the justifications behind the government's spending plans further inhibits Parliament's watchdog role. Because of this information gap, Parliament and the public find themselves unable to assess adequately the appropriateness of governmental spending. Thus the government's role in setting and implementing policy must be reconciled with the legislator's responsibility for scrutinizing public finance.

Put another way, in our system it is right and proper that the government govern and exercise its power vigourously. Yet if this means that Parliament is largely bypassed, which seems generally to have been the case, are there not serious consequences? The Report of the Royal Commission on Financial Management and Accountability (The Lambert Commission) expresses a "deeply held conviction":

that the serious malaise pervading the management of government stems fundamentally from a grave weakening, and in some cases an almost total breakdown, in the chain of accountability, first within government, and second in the accountability of government to Parliament and ultimately to the Canadian people.

The questions are easy enough: what role should the elected Members have and how can current conditions be modified to permit Members to take on that role? The answers are exceptionally difficult.

This paper assumes that any changes will take place within the framework of cabinet government, so that the range of possible courses of action which will have any real impact is substantially reduced.

Most parliamentarians, as most of the public, have great difficulty coming to grips with the truly mind-boggling scale of modern government. Large figures can easily become meaningless. In addition, the manner in which the estimates are presented tempts Members to look for excesses in individual programmes. This occurs because the itemized presentation makes it easier for Members to identify single project costs than to come to grips with the relative balance of the government's priorities. Professor John Stewart has likened this to hunting rabbits when big game lurks nearby. Better information resources might help members take better aim on the big game.

It is all very well for members to throw themselves into scrutinizing estimates, analysing budgets and the like, but it may be that unless there is some political justification, few members will spend much time on difficult endeavours. Members are first and foremost elected representatives who are constantly aware of the political aspects of their job. The lack of political reward for keen effort at scrutiny is closely tied to the low level of public awareness of the current process and its possible impact on government spending and budgetary decisions. Perhaps only when more substantial political incentives are placed before Members can a truly thorough examination be expected.

The prime incentives built into the system work to increase spending, instead of leading Members to assess spending in terms of balancing priorities. Members who are particularly interested in one set of estimates, often because of the nature of their riding, will likely express the view that not enough is being done in this particular area and that more, rather than less spending is called for. By way of illustration, Members representing farming ridings, who are most likely to take a keen interest in the agriculture estimates, and are less likely than urban Members to support reductions in agricultural spending.

Potential reformers must also realize that the expected results of a given reform may not work out in at all the fashion envisioned. The tremendous changes in Ottawa's supply procedures in 1968 were aimed at greater accountability and improved parliamentary scrutiny of spending, but in a number of respects have worked in precisely the opposite direction.

GOALS: ACCOUNTABILITY, FLEXIBILITY AND CONTROL

This paper proposes the goals of accountability, flexibility and control as essential in discussions of current practices and proposals for change. Each is discussed in turn.

Accountability

The Lambert Commission recognized the nature and the significance of accountability:

Accountability is the essence of our democratic form of government. It is the liability assumed by all those who exercise authority to account for the manner in which they have fulfilled responsibilities entrusted to them, a liability ultimately to the Canadian people owed by Parliament, by the Government and, thus, every government department and agency.

Accountability is the fundamental prerequisite for preventing the abuse of delegated power and for ensuring, instead, that power is directed toward the achievement of broadly accepted national goals with the greatest possible degree of efficiency, effectiveness, probity, and prudence.

It borders on the trite to suggest that information is prerequisite to accountability, but the importance of this fact must be stressed. The form and nature of the information is absolutely fundamental; Members already have more information than they can handle, but it is often not useful information, and worse, it is often such as to encourage 'rabbit hunting'.

Capacity is relative to the prescribed task. For instance, members may have a greater capacity to act as watchdogs for the management of government programmes than to grapple with the question of whether the government chose the best programme in the first place. Thus, a Member's administrative capability may be greater than his policy-making ability - or vice versa.

Structures and procedures should facilitate a legislator's grasp of financial legislation, to enable him to deal with it responsibly. A significant aspect of procedure affecting accountability is the format of the estimates. Format is important because the information contained in spending and budgetary proposals must be accessible. This means that information supporting the proposals must be available and it must be clear enough for the Member to use it.

To illustrate this, consider the format of the federal government's estimates. The "Blue Book" of estimates is a mammoth, intimidating, line-by-line itemization of yearly expenditure; it is a classic illustration of losing sight of the forest for the trees. Accountability suffers in that departmental decision-making is fragmented to some degree because spending decisions are made with the imperatives of this format in mind. Spending is not totally oriented to programme needs, even though the government has recently tried such an orientation. Further temptation to spend on an item-by-item basis exists because not all difficulties need to be faced together, unlike decision-making oriented to programmes. Item-by-item spending decisions are easier for bureaucrats to make, and for Members to gloss over. Because spending is incremental, history serves to justify allocations, and also makes the decision to spend easier since less attention is paid to present and future priorities. The prospects for accountability are thus reduced because some spending is prompted not by policies and programme decisions, but by the decision-making and reporting procedures themselves!

Flexibility

Adequate provision for flexibility must be a prime consideration in any evaluation of government spending and economic policy. For present day governments budgets and spending and taxing decisions are far more than questions of how much to spend and how to pay for that spending; they are crucial tools of fiscal policy and economic management. In order for these tools to be effective, the government must not be overly bound by long term commitments and restrictions. However, this imperative conflicts with the objective of expenditure planning, involving the government's commitment to policies and priorities, which has benefits of its own. The ultimate degree of flexibility the government should have is in itself an economic policy decision. Governmental flexibility is restricted in two important ways.

First, although all spending is authorized by Parliament, great chunks of money are already determined by existing statutory commitments. Old age pension and baby bonus benefits are apt illustrations. Since the level of benefits and eligibility requirements are set by statute, the Government and Parliament has virtually no discretion over this spending; they simply count the number of pensioners and of babies and do some elementary math. (It is of course possible to reduce or do away with such programmes, but - even aside from the political ramifications - this entails a whole set of legislative actions outside the budgetary process). In the United States these expenditures have come to be called "uncontrollables" since they are given and established before the budget is drawn up. Recent estimates place better than half of the federal government's spending in this category.

The second problem is that even in areas in which the Government and Parliament do have discretion, they are faced with the enormous weight of inertia. Past decisions are accepted, and history justifies continued funding of departmental programmes. One is left with the impression that departments fear

that if they do not spend their full budget, their funding will be reduced the following year. The incentive is to spend "the money available" rather than "the amount needed". However the notion of "zero-base budgeting", in which all expenses and all programmes are reviewed and justified each year, is simply impractical. As Professor Aaron Wildavsky has summarized the U. S. experience with ZBB:

since a zero base was too threatening or too absurd, zero moved up until it reached, say 80 per cent of the base. To be sure, the burden of conflict and calculation declined - but so, at the same time, did any real difference from traditional incremental budgeting.

Parliamentary attention to financial matters, particularly spending decisions, is oriented to a year by year approach. There is nothing sacrosanct about the 12 month cycle; indeed, Governments plan and forecast over much longer time spans (as well they come to Parliament for approval of supplementary estimates). In several respects, the goals of flexibility and control might be better served by parliamentary review of spending which is not so rigidly bound by a year by year framework.

Finally, if these difficulties stand in the way of attaining the requisite degree of flexibility, it should be noted that flexibility is a two-edged sword. Many things are done in the name of flexibility which might better be described as disorganization, lack of decisiveness or an inability to plan ahead.

Control

Parliamentary "control" is distinct from the type of control that our Cabinet system dictates the government must have over policy and programmes. Parliament has a clear responsibility to see that the government has control. Hence, Parliament is not so far removed from control as might appear. Three forms of control are important for our purposes:

Legal control derives from Parliament's performance of its 'formal' role. The legal requirements in the British North America Act give Parliament a formal power of the purse. When Parliament votes on the estimates and the budget, it is exercising this control, and those pieces of financial legislation are then regarded by the public as legitimate.

Secondly, managerial control refers to the assessment of efficiency and other administrative objectives. In practice this form of control tends to emphasise post-expenditure review rather than pre-expenditure scrutiny. Administrative goals such as efficiency and performance are relative to policies and standards already laid down. For instance, efficiency is defined by the Royal Commission on Australian Government Administration (Coombs Commission) as a combination of effectiveness and economy. The Government devotes great quantities of time and effort to exercising this type of control, but Parliament, through the Public Accounts Committee and other vehicles, is involved as well. Parliament seeks managerial control by ensuring that money is spent for the purposes it intended. In this regard, the work of the Auditor-General has been invaluable to the Public Accounts Committee and to Parliament.

Strategic control is allocative, in the sense that it involves taking fundamental policy decisions about how the government's resources will be allocated. Most policy decisions have financial implications, if only the costs of administering the programme. Parliament clearly has an interest in, and a duty towards questions of strategic control and the spending and taxing issues which flow from them. A measure of strategic control on Parliament's part does not necessarily detract from the governments planning initiative. For instance, Parliament may be concerned about the care and fairness with which a government decision was reached.

This brings to the fore the "policy" component of spending decisions, and raises an interesting variation across jurisdictions. Both the New Zealand Public Expenditure Committee and the recently demised British Expenditure Committee have been severely hampered in that their terms of reference explicitly preclude them from considering the policy aspect of spending. This is an artificial and debilitating limitation since full consideration of spending must include the advisability of purposes for which the money is spent, and consideration of policy hardly makes sense without an appreciation of cost. In Canada, rather the reverse has occurred. Instead of pursuing the money aspect of spending ("why do we require x dollars for this programme?"; "what accounts for the rise in spending in this item over last year?"), Members tend to concentrate heavily on the merits and shortcomings of the policy behind the spending.

The opinion is sometimes ventured that parliamentary evaluation of spending and finance, particularly that carried out by committees, is most effective when overt partisanship is held to a minimum and Members approach these topics in a cooperative fashion and stress 'value for money' or similar non-political criteria. In this way Members can concentrate on ferreting out the facts and simply let the facts speak for themselves rather than waste time and effort in fruitless partisan wrangles. This view may be correct up to a point; by way of illustration, several of the British Expenditure Committee's subcommittees produced effective work on essentially non-political subjects. However, an approach of this nature necessarily cannot extend to a great many of the larger financial questions (and the policy decisions they are premised upon). It also raises the danger that priority will be given to the relatively insignificant matters on which agreement can be reached. More fundamentally, too much stress on a non-partisan approach is ultimately doomed to failure for it denies the primal nature of Parliament and its Members; Parliament is a pre-eminently political entity, built on party clashes, and its Members are very much party politicians.

PART II

CANADA

This review concentrates upon procedures relating to public finance and on proposals for reform at the federal level. Although the widening debate on parliament and financial measures has concentrated on the House of Commons, the provincial legislatures face essentially the same problems, and of course are bound by the same constraints of cabinet government.

Whatever else may be said, accountability to Parliament and the general topic of Parliamentary influence over public spending and economic policy has not suffered from a lack of interest. The final report of the federal government's Royal Commission on Financial Management and Accountability was released this spring. The C. D. Howe Research Institute recently published a study on accountability and control, and the Business Council on National Issues commissioned a study of parliamentary government in Canada, with strong emphasis on spending and finance. The Institute for Research on Public Policy organized a recent conference on this topic and the first two seminars held by the Canadian Study of Parliament Group concerned the budgetary process and accountability to Parliament.

The Estimates Process

A brief review and commentary on the current Ottawa estimates and taxing process fleshes out some of the more general issues raised above. A point of some importance is the fact that a very extensive process of review and revision takes place within the bureaucracy (principally the Treasury Board) and the cabinet before the estimates are tabled in Parliament. Expenditure planning begins twelve to eighteen months in advance of the target year and extends two years beyond the target. In analysing and evaluating the spending proposals which have percolated up through the bureaucracy, the Cabinet makes use of multi-year expenditure forecasts and economic outlooks.

For economists in the Treasury Board and for others with access to the analytical material which went into the preparation of the estimates, the figures in the "Blue Book" may be meaningful, but for parliamentarians who are not given the background information or programme evaluations, this is not the case. The Auditor-General himself has recently commented:

Since 1975 I have been reporting annually to the House of Commons on a situation with which every member of Parliament is thoroughly familiar and by which he is completely frustrated. I refer to the meaningless way in which the estimates are drawn up and presented to Parliament for reference to the various parliamentary committees to examine and analyze. Several members of the 30th Parliament who are chartered accountants confessed freely that the estimates in their present form are worse than inadequate - they are positively misleading.

The most recent report of the Auditor General includes an extensive discussion of Parliament's information needs and the changes necessary to fulfill those needs. At present, the estimates are organized to indicate single items of expenditure rather than programme totals. Traditionally not programme-oriented, they do not contain forecasts or retrospective comparisons. This format is more a product of

history than of reason and logic. The difficulty in comprehending the overall picture posed by the format of the estimates appears to be a central cause of what Professor Paul Thomas calls the greatest weakness of the current Ottawa practice:

policies and programs continue to be looked at piecemeal, usually on a short-term basis, and rarely in conjunction or comparison with each other. Most committees fail to study policy changes implicit in the annual estimates, to assess the success of departments in attaining policy objectives or to investigate the administrative efficiency of departments in any thorough or systematic fashion.

Prior to 1968, most estimates were considered in Committee of the Whole, but in that year the supply process was altered significantly. All estimates are now referred to the appropriate standing committee for the period between March 1 and May 31 and the Opposition has up to 25 days a year in the House to debate issues of its choosing. The idea was that many of these days would be employed to follow up on committee reports on estimates, but in fact this happens only infrequently. Usually, these days are used to debate political rather than financial matters. Procedural rules, which are too complex to be set out here, severely restrict the Opposition's possibilities for reducing specific expenditures (for example, the rules governing voting on a committee's recommendation to reduce an item of expenditure).

Reference to the standing committees was expected to improve scrutiny of estimates for it greatly increased the time available and also made it possible for Members to question departmental officials. In fact parliamentary examination of estimates seems even less effective than in the past, for several reasons. First and foremost, the 1968 package of reforms included a rigid deadline at which time estimates are deemed to have been reported from committee; in other words, the estimates pass automatically after a certain period. Former Leader of the Opposition Robert Stanfield is only one of many who believe that the House of Commons lost whatever vestiges of financial control remained to it when time limits were imposed on consideration of estimates. Secondly, the government has effectively discouraged substantive committee reports on estimates in which comments are offered on specifics of policy behind the estimates. Professor Thomas observes that "without the freedom to offer commentary on departmental operations it will be virtually impossible for committees to influence the future pattern of government spending through the supply process". Moreover, Members do not appear to have much inclination to review the administrative aspects of expenditure. Pressed by the nature of their representative duties to be generalists, Members find careful scrutiny of estimates less appealing than debating policy questions.

A common criticism of estimates study in committee - and of committee work generally - has been their lack of staff support. In the early 1950's one observer of the British Parliamentary scene made the following observation on Estimates subcommittees, which seems pertinent to Canada today:

their examination of expenditure is neither exhaustive nor professional and expert. These Committees working in the field of current expenditure conduct only general and comparatively amateur reviews of selected blocks of expenditure, departments and questions, all picked by a haphazard, though apparently effective method. Their questions and their examination of written information are those of the intelligent layman. Their work is preceded by no exhaustive examination of the whole field.

Intelligent laymen are no longer good enough. Although restructuring of the budget and estimates format will make a significant improvement, Members will likely require professional staff to help them sort through the masses of information, to analyse it, and to enable them to delve effectively into programme spending and the underlying policy prescriptions. A small number of researchers, whose only loyalty is to their committee, could do the basic work which the Members simply have no time to do, but which is essential for effective committees.

Peter Dobell of the Parliamentary Centre for Foreign Affairs and Foreign Trade, which has provided first-class staff support for several committees, has pointed out that staff is no panacea. Any number of problems beset committees considering estimates or other financial matters, even if they are blessed with top notch staff.

In a paper prepared for the Lambert Commission, Mr. Dobell has cited the work of the Senate Committee on National Finance as a possible model for the improvement of estimates scrutiny. Each year this committee selects one programme of one department for extensive examination. The committee, which has a small but expert staff, strives to avoid undue partisanship and sensationalism in its enquiries and is thus able to build a cooperative relationship with the department. In its deliberations it employs sub-committees for specific topics, and invites witnesses from outside government as well as departmental officials. The Committee's reports have been thorough and effective in terms of bringing about both policy and administrative changes. Although only one programme is examined at a time, the depth of the investigation gives officials pause for thought and may thereby have a greater influence than the rather superficial treatment accorded departmental estimates in the Commons committees.

Confidence

Parliament does have at its disposal the non-confidence motion, but the usefulness of this device for controlling spending is questionable. Strict financial control is used with trepidation in minority government situations, because the price of controlling spending may be an election; in a majority setting the risk of defeat does not exist so that the controlling effect of the threat is lost. If a formal non-confidence motion is thus of sharply limited use for the Opposition, the Government typically treats any attempt at reducing spending as a matter of confidence.

The Business Council on National Issues is only the most recent proponent of the view that improved parliamentary control of spending would result from a willingness on the part of government to allow the House to overturn portions of its expenditure proposals without declaring them to be matters of confidence. Their argument runs as follows:

On the one hand, the government publicly seems compelled to treat every issue as one of confidence and, therefore, one in which defeat cannot be tolerated. On the other hand, Members of Parliament from all political parties revealed that they believe governments should be able to accept amendments and even defeats on some matters. It seems impractical that a government can fall on the basis of a defeat by vote in the House of Commons, regardless of the importance of the matter that is being voted upon.

It is also evident that the pervasive influence of the rules of confidence leads both to greater political partisanship in criticizing and defending legislation, and to a greater demand for party discipline. Unnecessary political posturing inevitably leads to reduced credibility for our elected representatives. In addition, excessive requirements for party discipline serve to prevent the individual Members of Parliament from playing a far more constructive role in Parliament.

This suggestion raises some very fundamental issues of cabinet government and is, to say the least, controversial; the pros and cons are sufficiently clear that they need not be laboured here.

Parliament and Taxation

In several important respects, parliamentary evaluation of taxation is very different from its scrutiny of spending. For one thing, unlike in Britain, taxes do not have to be re-authorized every year; only new taxes and changes in existing taxes come before Parliament. Tax legislation, given the intricacies of the Income Tax Act and other pertinent statutes, is inherently far more complex than spending decisions. Finally, even though Ottawa has done away with a good deal of the more arcane procedure for bills raising money, these measures are still dealt with in the Committee of the Whole.

A special task force of the Canadian Tax Foundation examined the parliamentary tax process recently and found it seriously wanting. Among the more important proposals suggested by this review were for study of tax bills in standing committees, thereby offering the Members and the public an opportunity to hear expert testimony (from both inside and outside government) on the implications and details of the tax amendments. It was also suggested that the veil of secrecy surrounding tax changes be lowered somewhat, and a range of proposals for tax changes referred to committee some weeks in advance of the budget; this it was argued would make for more extensive and more open public involvement in the tax process, and in the end for better tax legislation.

This topic of Parliament and government revenue also raises the issue of what have come to be called "tax expenditures". These are revenues which the government, for various policy ends, chooses not to collect by granting special deductions, exemptions or tax credits. In effect, the government 'spends' this revenue at the source. The proposed mortgage tax credit is one illustration; the depreciation allowance for oil companies is another. Recent estimates indicate that Ottawa's annual tax expenditures are in the neighbourhood of 8 billion dollars. The policy objectives, it is generally agreed, behind tax expenditures could be reached equally well by actual spending through subsidies or grants. The key point for present purposes is that actual spending must be reviewed and re-authorized every year, while tax expenditures, once enshrined in legislation, continue indefinitely with almost no Parliamentary oversight.

Under the new budget laws in the United States, the President must report to Congress on the details of all tax expenditures, so that their magnitude and impact are clearly understood. Economist Allan Maslove has proposed a similar report by the Minister of Finance to bring tax expenditures to public and parliamentary attention. He has also recommend a five year 'sunset' approach, whereby each tax expenditure would lapse after five years unless specifically re-authorized after a serious review.

At one time, parliamentary consideration of spending was closely tied in with tax measures, but historically the two have grown apart so that, for Parliament at least, expenditure decisions are all but entirely separate from decisions concerning revenue. No effective parliamentary device exists for studying the whole budgetary picture - the overall size of the deficit, the economic relationship and policy implications of particular revenue measures and spending programmes, and a host of other fundamental economic issues. Parliament is in effect asked to approve billions of dollars of expenditure without giving a thought to the revenue side of the ledger.

The Lambert Commission

Much of the nearly 600 page Final Report of the Lambert Commission involves administrative matters beyond the purview of this paper. The Commission leaves no doubt, however, that the reform of internal decision making procedures is an essential pre-requisite to the improved parliamentary scrutiny of expenditures. Space limitations preclude anything more than a brief synopsis of some of Lambert's key proposals for strengthening parliament and its influence over public finance.

The Commission proposes that the Minister of Finances present annually to Parliament a five year fiscal plan "which provides estimates of revenues, sets expenditure ceilings, and reflects the expected surplus or deficit. The Plan would be based on the existing tax structure and clearly stated economic assumptions". In addition any new financial measures would be accompanied by a report on their effect on the plan. The plan would be referred to a new Standing Committee on Government Finance and the Economy, which, with the help of expert staff and witnesses, would consider the larger questions of public finance, which are rarely examined in detail in the present structure. This committee would also deal with tax legislation and the overall thrust of the estimates. Following consideration by this committee, the fiscal plan would be the subject of a two-day debate in the House. The plan would reflect the government's spending plans so as to allow easy comparison with stated objectives and anticipated economic trends. It would in effect outline 'where we are going and how we will get there'.

Many of the Commission's recommendations involve strengthening Parliament's standing committees and giving them a clear focus and direction in financial matters. Specific recommendations include a restructuring to provide for fewer committees with fewer Members, so as to lighten the burden of committee work; reducing the impact of substitution by giving prior notice for votes and by establishing lists of alternate Members for each committee; providing better staff resources for committees; improving the lot of committee Chairmen by granting them more secure tenure so as to permit them time to develop their independence and expertise, and by paying them (as is done in Ontario and Quebec) for their extra duties.

Procedurally, the Commission's most important recommendations are for a) the automatic referral of annual reports of departments and agencies to the appropriate committees for study; b) a change to permit, indeed encourage, substantive committee reports on estimates.

The Lambert Commission also recommends the adoption of a modified 'sunset' approach to funding. New programmes would be reviewed by standing committee five years after their introduction. All existing programmes would be reviewed once within the next ten years, and then every five years thereafter. Programmes, then, would have to be justified to Parliament periodically, so that incrementalism, and a 'spend or lapse' pattern of appropriation would lessen. Impressed with the work of the Senate Committee on National Finance, the Commission recommends that its technique of in-depth review of selected programmes be adopted by Commons committees whenever possible. Format changes for the estimates are also proposed. The Commission recommends that the estimates should be revamped to make year-to-year comparisons easier and to include a condensed version of the fiscal plan. All in all, the Lambert proposals are designed to encourage Members to come to grips with the priorities and policies lying behind spending and taxing decisions.

The Commission also came forward with recommendations for a massive restructuring of the federal bureaucracy, principally in the way of heightened centralization. Perhaps the most interesting aspect of these enormously far-reaching suggestions is the reaction voiced by Douglas Hartle, a University of Toronto political economist and former top budgetary analyst in Ottawa. Hartle believes that, together with a strong Freedom of Information Act, the strengthening of Parliamentary committees along the lines suggested by the Commission would render superfluous most of its other concerns and recommendations for bureaucratic reform.

Postscript

In December 1979, the Progressive Conservative Government brought forward a paper outlining a new process for allocating and controlling expenditure, called the "envelope system". The idea, briefly, is to sort departmental expenditure decisions into nine policy areas, or "envelopes". Spending limits would be imposed on each envelope; this would force a choice of alternative spending decisions within an established set of priorities. The basic priorities would be set out in a five-year fiscal plan. The overall system was designed to operate at the Cabinet level, and suggests a greater concern with control and restraint than with accountability.

Aside from its political consequences, the Conservative Budget was important for the long term financial forecasting which it incorporated and also for the major study of tax expenditures which was published as a budget paper.

Shortly before its defeat, the Clark Government released a Position Paper on the Reform of Parliament. Although principally concerned with matters other than supply procedure, the paper did offer several specific proposals including a procedure for the House to eliminate part of an item or vote.

PART III

UNITED KINGDOM

Nearly two decades ago, Britain's Plowden Committee on Control of Public Expenditure proposed changes similar to those currently being discussed in Canada. The Committee's Report emphasized the need for greater use of planning techniques and long term spending, revenue and economic projections. In response, the Government began to table annual white papers on public expenditure, including five year spending projections. Although the white papers are debated in the House, this has not proved satisfactory in part because the white papers say little about the policies underlying proposed spending, in part for lack of an opportunity to debate spending and taxing provisions in concert, and in part because the basic format is such as to discourage in-depth evaluation of spending in favour of very broad generalization (particularly since the projections have so often been badly wide of the mark).

Pressure for further reform persisted through the 1960's, and in 1969 the Procedure Committee mounted a special enquiry into the scrutiny of public expenditure and administration. The Committee recommended the establishment of an Expenditure Committee for the review of estimates, and the Committee was duly struck in 1971, although not entirely in accord with the recommendations of the Procedure Committee. Most notably, the 49 Member Committee had fewer specialized subcommittees with wider responsibilities and smaller membership than originally envisioned, and the General subcommittee did not have representatives from the specialist subcommittees.

A former Chairman of the committee has summarised its mixed record as follows: "in the United Kingdom parliamentary control of expenditure is very weak but it is not quite as weak as it was before the Expenditure Committee was set up in 1971". The Expenditure Committee differed from its forerunner, the Estimates Committee, in two principal respects. First, it was given the mandate to look into all Government spending and also into the five year spending projections set out in the White Papers. Secondly, it was empowered to examine the methods by which the Government plans and controls spending.

Several factors explain the failure of the Expenditure Committee to live up to expectations. Each subcommittee's area of responsibility was so wide and its membership so small that the burden of work on individual members was such as to permit them to perform only the same type of scrutiny as carried out in the old Estimates Committee. The specialist subcommittees, like their predecessors of the Estimates Committee, usually choose to examine particular subjects, rather than scrutinizing the five-year expenditure forecasts of the annual White Paper on Public Expenditure. The effort to shift from a focus on current spending to greater use and review of expenditure planning was not successful.

Since the specialist subcommittees had only weak links to the parent committee, they were relatively free to develop their own approaches and had little contact with one another. Accordingly, the hope of the Procedure Committee that the subcommittees would develop a co-ordinated, coherent approach to the whole question of government expenditure was not realized. The individual subcommittees were sometimes able to develop a long-term perspective on the spending plans of particular Departments, but due to the fragmentation of subcommittee work, the Committee was unable to consider the larger questions of allocating resources among competing government functions.

Although the subcommittees were assisted by ad hoc specialist advisors, they were seriously understaffed, in view of the magnitude of their mandates. A related, and perhaps more serious problem is cited by Professor Ann Robinson in her recent book on the Expenditure Committee: "The real problem facing legislators in attempting to provide oversight of bureaucratic spending is that they have no alternative sources of information with which to compare the bureau's own estimates of costs".

Perhaps the killing blow was the lack of interest in the House; the Expenditure Committee reported dutifully, but most of its reports were never debated, or if they were, occasioned little enthusiasm or results.

On the positive side, the various subcommittees did produce some solid, in-depth work, which did have a certain impact on specific government programmes. In this sense, the Expenditure Committee achieved some success in what Professor Robinson suggested were the "best practical hopes" which ought to have been held out for it: "to improve the quality of Government decisions about public spending by providing new channels for communications to and from Government." Another important positive feature of the Committee was the success of the General subcommittee in transmuting itself into virtually a select committee on economic affairs.

This past summer, on the recommendation of the Procedure Committee, the Expenditure Committee was abolished in a far-reaching re-organization of the British Committee system. Henceforth departmental estimates will be considered by one of a dozen specialized committees which have an open-ended mandate to enquire into any aspect of departmental administration or policy (thus abolishing the artificial dichotomy between policy and spending which often hamstrung the Expenditure Committee). The Public Accounts Committee continues its traditional pursuits.

PART IV

THE UNITED STATES

The American Congressional system, built as it is upon checks and balances between legislature and executive, differs significantly from our Parliamentary system. Many of its fundamental premises are radically different from those of the Westminster model so that approaches and techniques which work in Washington may make no sense at all in the parliamentary context. For example, Congress regularly reduces executive spending proposals in some fields by billions of dollars while increasing expenditure in other programmes by similar amounts. All the same, a brief review of recent developments in the U. S. Congress may suggest some approaches and ideas of great interest to Parliamentarians.

Prior to 1921 each agency came directly to Congress for funds; there was no overall "budget". The Budget and Accounting Act of 1921 gave the responsibility of coordinating and preparing a budget to the President. Congress retained the constitutional 'power of the purse', however, in that Congressional Appropriations and Ways and Means Committees considered and altered the budget's spending and revenue proposals.

In part because Representatives and Senators found the allurement of directing expenditure to their constituencies too great, spending went relatively unchecked by Congress. Congress also lacked adequate information to responsibly control the budget. The policies built into the budget by the President and his Office of Management and Budget were not effectively scrutinized by the Congress.

The last straw leading up to reform of budget procedures, was an overuse by the President of his power to impound funds. Congressional appropriations permitted spending of certain amounts, but the President retained "reasonable powers" to direct that not all appropriated funds were actually spent.

In 1974, The Congressional Budget and Impoundment Control Act was passed. The Act requires Congress to decide twice each year the totals of the federal budget. Strategic control of spending -- the power to determine policy and allocations -- has thus been re-established in the Congress. A new Congressional budget-making structure was established. The Act also created the House Budget Committee, the Senate Budget Committee, and the Congressional Budget Office, which has a staff of over 200 and supplies the Congress with Budgetary estimates and fiscal and programmatic analysis.

One of the most significant features of the new budgetary process is the role of the new Budget Committees. These Committees serve to co-ordinate spending proposals from the various committees and thereby clearly define the trade-offs available in the allocation of funds to competing policies. Congressmen now see how individual decisions on particular programmes affect the total budget. Furthermore, the Budget Committees spend a good deal of time reviewing the revenue side of the ledger, and in analysing the overall economic impact of the size of the deficit, the revenue implications of certain spending decisions and kindred topics. The actual spending decisions on particular agencies and departments remain with the individual committees.

In the January preceding the start of the fiscal year on October 1, the President presents his budget to the Congress. This budget has been prepared by the President's Office of Management and Budget and is organized in functional format, but a line-by-line itemization is also available. Only Congress, however, may appropriate funds, and the Congress no longer needs to accept the appropriations or policies recommended by the President's budget. With the staff of its budget committees, and the expertise of the Congressional Budget Office, the Congress has its own independent sources of information about the wisdom of policy, the need for programmes, projected future costs, and economic trends.

The budget, which recommends the levels of expenditure, takes the form of two budget resolutions formulated by the Congressional Budget Committees. One 'concurrent resolution' is passed in May, the other in September. This resolution is not signed by the President and does not have the force of law, but does have the effect of a Standing Order on Congress. Budget resolutions are prepared by the House and Senate Budget Committees, and a joint Budget committee then settles on one compromise resolution which is put to Congress. The Budget Committees work closely with other specialized

Congressional committees and consider their recommendations concerning departmental estimates of their needs. Additional information and support is provided by the Congressional Budget Office.

The budget resolutions are not line-by-line itemizations, but instead allocate expenditures among broad categories such as national defence and health; they also establish totals. The spring resolution sets targets for revenue and for expenditure on these broad categories. As targets, these figures represent optimum levels given programme objectives and economic policy; they have been surprisingly accurate. Over the spring and summer individual spending decisions emerge. In September, a second resolution is passed which sets a binding spending ceiling and a revenue floor. The Congressional Budget Office watches the legislative performance of the Congress and compares it with the targets and ceilings. After September, Congress may still re-allocate funding among programmes, but in so re-ordering its spending priorities, it may not authorize total expenditure in excess of the limit.

In addition to providing information which assists in formulating the resolutions, the Congressional Budget Office is a wellspring of other information which aids Congressional control over expenditure. The Budget Office provides, as much as possible, five-year estimates of the projected costs to implement public bills or resolutions reported by Congressional Committees. This report shows a comparison of the bill with the figures from the most recent budget resolution and a five-year projection of outlays. The Budget Office must also provide Congress with a five-year analysis of the bill's effect on tax expenditures. Finally, the Congressional Budget Office must provide Congress, at the beginning of each fiscal year, with a five year projection of the cost of continuing the expenditure and revenue plans as set forth in the second budget resolution.

The annual reports of the Budget Office identify alternate budget strategies for the upcoming year but do not recommend policy. These alternatives discuss variations in allocations among major programmes. The information provided to Congress by its Budget Office separates budget analysis and policy analysis. The alternative budget allocations form one part of the Budget Office's fiscal and programme analysis role. Other aspects include analysis of economic trends and alternative fiscal policies, an estimate of the inflationary effect of legislative proposals, and an assessment of programme and policy issues affecting the budget.

The Congressional Budget Committees are well-served by the quality and accessibility of the information provided by the Budget Office. In fact, it has been said that partisans in the Congress often find the information too good: the costs of a programme are no longer easily over or understated. The success of the new budgetary process is closely tied in with Congress' access to this authoritative source of information and analysis, which is completely independent of the executive.

Congress is also assisted by the General Accounting Office, which has authority to investigate all matters relating to the receipt and use of public funds. Some government activities, though, are beyond the Accounting Office jurisdiction. The General Accounting Office also supplies information to the Congressional Budget Office, and watches over expenditures. It may suggest ways of improving the effectiveness of programmes.

Since the 1974 reforms, Congress has shed much of its image of fiscal irresponsibility. Congress is now well-enough informed to be able to set fiscal policy, and to accept the responsibilities of budgetary decision-making. In sum, Congressional control of financial legislation has been greatly enhanced, while its propensity to spend has been unmistakably curbed.

PART V

NEW ZEALAND

In an attempt to bolster its faltering influence over public spending, in 1962 the New Zealand House of Representatives created a Public Expenditure Committee. This committee combines the pre-expenditure scrutiny of estimates with post-audit review of the public accounts. On occasion the committee also considers bills or other financial matters referred to it by the House. Meetings are normally held in camera.

The Committee usually considers estimates while the House is sitting and breaks into small (2-4 Member) subcommittees to carry out special investigations when the House is recessed. Although the Public Expenditure Committee is formally proscribed from considering "policy", and has no opportunity to review long-term spending projections, it does delve deeply into administration and efficiency (and has occasionally thereby strayed across the vague boundary setting policy off from administration). The policy aspects of spending are fair game when the estimates come up for debate in the Committee of the Whole.

Consideration of estimates is generally acknowledged to be weak; one observer has labelled it "largely superficial and perfunctory". The Committee may refer such estimates as it sees fit to the appropriate select committee, although each set of estimates is reviewed by the Public Expenditure Committee at least once every three years. The pressure of time, the Members' lack of expertise and the inability to pursue policy concerns all contribute to the ineffective review of estimates; compounding the problem is the fact that the Committee does not report to the House on estimates, yet the House seems to presume that they have been adequately scrutinized in committee.

The Committee's special post-expenditure investigations are, by all accounts, far more influential. The terms of reference are sufficiently broad that it can look into matters suggested by individual MPs, the Auditor-General or Committee Members, although most originate with the Auditor-General. The Committee's enquiries have been characterised by initiative and independence, and since they are concerned mainly with value for money, are conducted in a relatively non-partisan and constructive fashion. The Committee's influence devolves from two sources. First, a substantial proportion of its recommendations are implemented by the Government. A key factor here is the Committee's habit of following up and reporting on the Government's progress in putting earlier recommendations into practice; this sometimes requires rather pointed criticism of Government procedures and operations. Secondly, the Committee seems to have had a salutary effect on efficiency simply by carrying out its work thoroughly, even though the number of matters it looked into was fairly limited. As a former Chairman put it, "the chief weapon that the Committee had was to make the various departmental people apprehensive about an investigation".

The Public Expenditure Committee has recently broadened its horizons by examining broader expenditure issues, such as over-spending on voted estimates (which, within certain limits, is legal in New Zealand). The Committee has also benefited from the addition of expert staff assistance, though the need for greater staff support is still pressing.

The present Chairman has recently decried the Public Expenditure Committee's lack of clout, and the overall lack of financial accountability to the House of Representatives. Yet even when its rather indifferent record with respect to estimates is considered, the experience of the New Zealand Public Expenditure Committee has much to commend it to our attention. As the Clerk of the Committee has written, its unusual mandate is of particular significance:

proposals for the coming year allows a very wide range of expenditure to be examined at considerable depth. Although the Estimates exercise is distinct from the investigatory role of the committee, inevitably the two are drawn into a continuum of public expenditure scrutiny.

CONCLUSION

Glancing at the procedures used in other countries may be instructive, but discussion of such procedures away from each country's political and social context places the procedures in an unreal light. Even so, no instant solutions of guaranteed infallibility suggest themselves from our review of parliament and financial matters. What surface instead are certain requirements that must be met for parliamentary scrutiny to be effective. Such requirements are dependent on the objectives we hope to achieve through our scrutiny procedures. Agreement on goals is essential. The three objectives proposed here - accountability, flexibility and control - are very broad and more specific goals may be developed. In all countries described in this paper, some balance of these three objectives is sought. The effectiveness of any scrutiny procedure is affected by the quality and availability of information, the mode of presentation of information, the time available for scrutiny, internal decision-making and accountability processes, a clear definition of roles, the member's capacity for and commitment to scrutiny, and so forth.

Professor Alan McRobie has written that

Parliamentary control of finance is limited to checking, supervising, verifying and safeguarding the finances of the State. Its control lies in its power to examine a government's financial proposals, to publicise them and, where warranted, to criticise them.

From one point of view, this seems a very limited influence on the financial decisions of multi-billion dollar governments, but in most jurisdictions examined, even this limited degree of influence is largely missing. In the Canadian setting, the need for reform is clear and a number of interesting proposals have been suggested, but the appropriate choices to bring about reform are not at all clear.

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THE ROLE OF BUNDESTAG COMMITTEES
IN FINANCIAL SCRUTINY AND ACCOUNTABILITY

A Background Paper Prepared for the
Canadian Regional Seminar of the
Commonwealth Parliamentary Association
October 15-19, 1979

Martha Fletcher
Research Officer
Ontario Legislative Library,
Research and Information Services

THE ROLE OF BUNDESTAG COMMITTEES IN FINANCIAL SCRUTINY AND ACCOUNTABILITY

Complex economic policy-making in modern industrial states poses considerable difficulties for scrutiny and control by elected representatives of government planning and spending policy and practices. The problem is one common to all legislative systems -- how to carry out the responsibility of making government accountable -- and one which is handled in somewhat different ways in different systems, dependent in part on the general constitutional relationship between the executive and the legislature.

The example of the Federal Republic of Germany is of interest to those familiar with Westminster-style parliaments because it combines a number of their common features with an active legislative committee system which regularly amends government bills. As such, it may present some interesting examples of ways in which systems of responsible government may also provide for active legislatures without imperiling the stability of the system as a whole.

As at Westminster, the relationship of legislature to executive in the Federal Republic is one of responsible government: the executive depends on the continued support of the lower house for its existence. The Chancellor -- the functional equivalent of the Prime Minister -- is elected by the Bundestag, the lower house, and may be removed by it. Disciplined parties in the Bundestag ensure that the Chancellor has the continuous support necessary to govern. Though it is not constitutionally required, it is common practice for the Chancellor and his Cabinet to be drawn from the leadership of the parliamentary party or parties supporting the government. And, as in the British model, the head of state is politically neutral.

There are, however, important differences as well. The upper house, the Bundesrat, is composed of representatives from the provincial, that is the Land, governments, and has veto power over certain classes of legislation. And, particularly important for an understanding of the committee system of the Bundestag, the concept of what constitutes non-confidence of the Bundestag in the government is much more specific and limited than at Westminster. Unlike Westminster, the failure to pass a government bill, even a money bill, in the form presented by the government is not an automatic vote of non-confidence. If the Chancellor is not satisfied that he has the confidence of the House he may ask for a specific vote of confidence. If it does not pass, he may ask the Federal President to dissolve the Bundestag. The Bundestag may then avoid dissolution by electing a new Chancellor to replace the one to whom it has denied confidence. In addition, the Bundestag may on its own initiative replace a Chancellor at any time by a "constructive vote of non-confidence" which elects a new Chancellor. Within these limits, then, there is significant room for the legislature to play a part in the decision-taking process.

While it is possible for members to introduce bills, the bulk of legislation originates with the Government. Such legislation, of which the budget would be one example, is first introduced in the Bundesrat. There it is considered by committee, voted on by the House, and sent, along with the Bundesrat's recommendations, to the Bundestag for first reading there. The committee stage in the Bundestag comes directly after first reading. After examination by committee the bill is reported out to the House for second and third reading. It then returns to the Bundesrat for reconsideration, followed by consideration by a Mediation Committee of both houses should there be differences, and promulgation thereafter.

It is in the committees, however, that the major decisions take place. There legislation is examined, challenged, defended and altered in a manner which is in many ways closer to the work of the powerful committees of the American Congress than it is to parliamentary practice in the British model. The nineteen committees of the Bundestag each have responsibility for consideration of legislation in a particular subject area, largely corresponding to the subject areas of the government ministries. It is a committee's responsibility to examine in detail a bill referred to it and to make recommendations to the full House on its disposition. The question of which committee will have responsibility for a bill is determined in part by the rules of the House (for example, all appropriations bills go to the Budget Committee) and in part by negotiation among the chairmen of the committees mediated by party leaders or, in the last resort, by a vote on the floor of the House. Since many bills will overlap several subject areas it is common for a bill to be studied by several committees, though only one will have the responsibility for reporting the bill to the House.

In general a committee has a relatively free hand to consider a bill in its own way. A committee may break down into a series of sub-committees to consider a complex bill, with each sub-committee reporting its conclusions to the whole. A member will be chosen as reporter for the bill, and it is expected that his report will present both minority and majority viewpoints. There is no legal or procedural bar to prevent a committee from substantially rewriting a bill referred to it, and it is the committee's version which the House considers in second reading. In considering a bill, committees generally have many kinds of material to examine. The government will commonly send out not only the text of the proposed bill, but substantial supporting material for deliberation. In addition, ministers and civil servants will appear before the committee, along with any experts, inside or outside government, the committee wishes to hear; moreover, submissions from interested groups, the report from the relevant Bundesrat committee, and the views of the Land governments and the Land bureaucracies will be available.

While the proceedings of committees are not open to the press and the public, they are not held in secret. There are always observers and participants -- from government, the Bundesrat, or even other members of the House not serving on the committee -- at the proceedings, and the minutes are open to public inspection. This procedure apparently is an attempt to preserve a setting in which open give and take can be maintained along with a public right to know what is being done.

Parties play several key roles in the working of committees and a number of complementary roles as well. First, the membership of a committee is divided among the parties in the House in proportion to the number of the 518 seats in the House each holds. Each party selects which of its members will sit on each committee. In making this decision it will consider the preferences of the members, their areas of expertise, and their prestige, experience and capacity to do an effective job on the committee as the party's representative. A member is assigned to only one committee at a time. Because of the importance of committee work to the legislative process and to the party's effectiveness, assignment to a major committee, such as Agriculture, Defence, Budget, Judiciary, Social Policy or Foreign Affairs, is a significant route to career advancement and thus heavily competed for.

A committee assignment also means, however, that the member will be a member of the larger party working group which deals with that subject. The function of such a working group is to prepare the party's policy positions on issues and with respect to particular bills, and, where appropriate, to draft bills

which the party can have submitted to the Bundestag. It brings together members who are assigned to different but related committees to consider the larger policy position. In many ways they act as "shadow committees," and consult with interest group representatives, civil servants, and other experts as well. The party member of a Bundestag committee who is designated head of the party delegation to that committee will also be on the executive committee of the party working group. On the Bundestag committee he will be responsible to the party for the attendance of his delegation at meetings, for the organization of the delegation's work on the committee, and for any statements to the public on the party's position on that issue -- an indication of the seriousness with which the parties take the work of the committees.

Finally, the chairmanship of committees, like membership on committees, is shared among the parties on the basis of their numbers in the House. Though ill-defined in the rules, the chairman's role is important in setting the agenda of the committee and determining the priority of items on the timetable and the amount of time spent on each. The chairman also appoints the reporter who will report to the House on a bill on the committee's behalf; this may be a significant choice for the fate of the bill under consideration. As well, the chairman also controls the work of the staff of the committee, which, though small in number and generally administrative and secretarial in duties, can be valuable in a House where few staff people are available to members.

While the members of committees do much of their work on a committee conscious of their responsibility to their party, committees do develop a "culture" of their own. Because of the importance of committees and the emphasis on specialization as the proper function of a member, committees tend to remain quite stable in membership from one session to the next. Not only, then, do members bring to each new session the accumulation of expertise gained from their pre-parliamentary background and previous experience on the committee, but committee members have the shared experience of working with each other on a long-term basis across party lines. One consequence is that committee members develop a solidarity as a committee which transcends party boundaries and weakens the impact of party solidarity in ensuing deliberations and decisions. The duty of the government parties to defend and the opposition parties to oppose has probably also been weakened by the years of coalition government, where the partners have not necessarily had the same objectives and priorities. In any case, it is reflected in cross-party votes and positions at the committee stage. Another consequence of long tenure on committees is that the members develop long-term working relationships with the relevant government departments and with the interest group representatives who routinely press their case with the committee. These relationships, together with the fact that members are often elected with the knowledge that they come to parliament as a representative of a specific interest group as well as a member of a party, serve to ensure that the party's position is influenced by its members' outside contacts.

The Budget Committee

It is in this general context, then, that the work of the Budget Committee takes place. It is there that the legislator has the clearest opportunity to take part in the budget decision process, and its importance is underlined by the high proportion of the parliamentary leadership sitting among its some 30 members. Traditionally it has been chaired by an opposition member. The Budget Committee's work involves not only all bills involving expenditure but also specifically consideration of both the budget and the post-audit of expenditure. It does not, however, consider tax bills, which are the responsibility of the Finance Committee. This mammoth series of tasks

accounts for the special rules of the House applicable to the committee. First, it has the right to report all bills requiring appropriations, regardless of claims of other committees. As well, because of its heavy workload, it alone of the Bundestag committees is allowed routinely to hold its meetings while the House is sitting. And, again unlike other committees, it works year-round.

When the government presents its budget, it first goes, like any other government bill, to the Bundesrat. Thus by the time the budget appears in the Bundestag, members have had three weeks to study it and to gauge the reaction of the public and of other governments to it. The serious work on the budget by the Bundestag then begins with its referral to the Budget Committee.

The Budget Committee has a wide variety of sources of information available to it as it goes about its work. First, of course, is the draft budget presented by the government -- a weighty compendium of figures approximately 3000 pages long. In general the budget is set out on a department by department basis rather than organized programme by programme. As such it is better organized to satisfy the need for administrative control rather than political evaluation. Expenditure headings are extremely specialized, with column after column of individual items, often involving minute sums of money. Lump sum appropriations appear for only a few areas such as agricultural subsidies. Some attempt has been made in the past decade to make the overall purposes of the budget clearer, and the government now lists related programmes together across departmental boundaries in addition to the listing them with the department under which they come.

As a consequence of reforms in the late 1960's, the government must also prepare and submit to the legislature a five-year plan which shows probable expenditures for the coming five years together with the sources of revenue proposed to cover them and the relation of both to the projected development of the economy as a whole. This plan does not need the approval of Parliament nor does it appear that its direction and purposes are debated as such in the Bundestag. It is for its information only, though critics have argued that its consequences are considerably more significant than those of the annual budget. Each year the five year plan is revised in the light of that year's actual experience and thus is always five years ahead of actual events. Parliament is not bound by the plan in law -- it is merely a statement of the government's projected activity -- but it does put certain practical restrictions (which will be discussed later) on Parliament's freedom of action.

The committee will also, of course, go outside the documentation provided by the budget and accompanying papers in reaching its conclusions. First among these additional sources are the Ministers and civil servants responsible for segments of the budget. They are a prime source of information, but of course not an impartial one and the problem of independent assessment remains. In addition to the government experts, the committee also can call for or hear submissions from outside experts and interest groups not satisfied with their hearing at the departmental level of decision-making on the budget. Thus, while gaining additional information for its use the committee can also serve as an additional access point for those interest groups which were unable to win their point when the budget was being drafted by the government.

As well, the Bundestag Committee has access to the deliberations on the budget by the Bundesrat and its Finance Committee, on which the Land ministers of finance or their representatives sit. Each has, of course, the expertise and research of his Land ministry at his disposal as a "counter-bureaucracy" to the submission of the federal minister. In Canada, the equivalent situation would be for the House of Commons to have available the

detailed views of the provincial treasurers and their departments on the strengths and weaknesses of the federal budget proposals. Land governments also take part in consultations in the Bundestag committees. On their own initiative they can offer information and expert assistance from their departments for the use of committees and of individual Bundestag members to promote the interests of a particular Land or the Lander as a whole. Thus the Bundestag is given the opportunity in its budget deliberations to deal with experts from various camps.

Finally, members of the committee can offer expertise in their own right, from their years of experience on the committee and the memory of past budgets. In addition, this committee, as one of the most influential in the Bundestag, will have a number of professional economists and related experts as members. One consequence of this high level of professional competence, along with the traditionally low turnover of members on the committee, is that the committee inevitably develops long-standing ties with the Finance Ministry, with which it has come to share many common perspectives and goals. Such a relationship means not only that information-gathering by the committee is easier, but also that the perspectives of the committee are doubtless known to the Ministry in advance and taken into account at the design stage of the budget. Thus its influence may be greater than it appears on the surface.

To deal with the extreme complexity of the task, the Budget Committee breaks down into sub-committees of two to four members each for its detailed analysis of the budget. Membership on each sub-committee is divided between government coalition party members and opposition members working together on the budget of a single department, with a particular eye to cutting expenditures on the recurrent costs. A large number of the amendments to the government's budget arise from this procedure. In theory the Bundestag's power to cut expenditure is unlimited except that it may not deny the government appropriations sufficient to carry out functions under existing laws, though in practice cuts have to meet the test of political acceptability. Its power to increase appropriations is limited by the requirement that the government must approve the increase, though this has not proven to be a restriction on the Bundestag in practice as the government has been unwilling to challenge a decision which, of course, has been supported by coalition party members. The conclusions of each sub-committee are reported back to the committee as a whole and are given great weight in the full report of the bill to the Bundestag. Again, in the Bundestag, there is opportunity for additional discussion of the committee report and for additional amendments, but the committee's views are largely decisive.

In addition to its responsibilities for the budget, the Budget Committee is also responsible for the post-audit of government expenditures. There it works with the figures presented to it by the Federal Court of Accounts, (the equivalent of the Comptroller General in Canada) resulting in the end in a vote by the Bundestag accepting the audit report. It is generally agreed that this is largely a ritual procedure, rather than a serious attempt to call the government to account for its spending, and the actual vote has taken place as late as six years after the budget year to which it referred.

While the part the Bundestag Budget Committee plays in the control of the public purse is more decisive than that of a committee of the British House of Commons, for example, it is by no means as powerful as an American Congressional committee. It has been argued that Bundestag committees are powerful not so much for the structural and cultural reasons discussed above but instead are important as the result of patterns of party power first during the Grand Coalition and then after the Bundesrat and Bundestag had different

parties in power. Committee power might thus be seen as "borrowed power", but even if that is so, it is also true that both by structure and by increasingly time-honoured custom, the committees have been more substantively influential than their Westminster counterparts.

Strengths and Weaknesses

In part, then, an assessment of the committee's strengths and weaknesses depends on one's perspective of what such a committee's proper role is. One British observer, Tony Burkett, sees the Bundestag committees as powerful expressions of a conception of Parliament as decision-maker rather than as critic, the main function at Westminster. Important in his assessment is the presence of professionally competent specialists in, for example, law or economics in the Bundestag, rather than the generalist members of the House of Commons. He sees the committees as exercising "the power of life and death" over government bills, and argues that "the use of specialist committees appears to have been a more effective check on government than that exercised by the Public Accounts Committee over Whitehall." Parallel to this, however, he notes the relative weakness of the Bundestag as an organ of public debate and criticism, by comparison with the British Parliament, and the importance of the weaker party discipline and the lack of a vote-of-confidence connotation to the passage or failure of an appropriations measure in the Bundestag. These, he argues, are crucial constitutional and conventional differences in practice which make possible both strong committees and a legislature which changes the bills before it.

While all these observations are accurate, other observers tend to argue that the decision-taking power of the Bundestag and its committees, while strong in comparison with Westminster, is more apparent than real, at least in the complex area of control of the public purse. First, the existence of long-term plans and programmes clearly make it difficult for the Bundestag to make changes which conflict with them while attempting to deal with the annual budget. First, Parliament is not permitted to withhold funds for programmes already enacted into law. As well, plans tend to have an integrity as a whole, and unless Parliament is prepared to question the entire basis of the plan, it is difficult to substitute alternatives at this stage of the process. Furthermore, the timing of the budget process is such that the budget year is always at least partly over before the budget is actually passed by the Bundestag.

Secondly, the existence of the five-year plan, while not binding on the Parliament, in practice circumscribes its freedom of decision-taking. So long as it is generally agreed that such planning is desirable (as Parliament did by enacting the 1967 Stability Law) it does not make sense to have frequent and substantial alterations from the plan. As well, the Stability Law also gives Parliament only a post hoc veto over a number of financial measures by the government, rather than an opportunity for prior approval and amendment.

Thirdly, the budget presented to the Bundestag is the product not only of the Federal bureaucracy but also of extensive negotiations and agreements between the two levels, given the nature of the federal structure and the number of joint undertakings of Bund and Land governments. While the Parliament is under no legal obligation to honour these agreements and in the process give up some of its freedom to determine the budget, in practice the political pressure to do so has been irresistible. This kind of agreement is an extension of what Donald V. Smiley has called executive federalism in Canada and might be an unexamined consequence of the introduction of a Bundesrat-type House of Provinces into the Canadian federal system.

Finally, while the Budget Committee is noted for the expertise, the long-term and relatively non-partisan working relationship of its members, and the thorough and intensive review they give to the budget as presented, observers assert that that review is one which pays too little attention to the meaning of the budget as a whole and the political significance of the direction in which it leads. Alfred Schmidt describes the situation as follows:

"But even in the annual budget debate no one looked at the situation as a whole; the experts in the budget committee frittered away their time with marginal details as did the members of parliament who have a special interest in particular sections of the budget. Moreover the members and, to some extent, also the ministers had insufficient information from the administration. Alternative programmes, even if they are in fact ever worked out, rarely leave the realm of administration, are available to the Finance Minister and the Cabinet only to a limited extent and almost never reach parliament."

Karl Friauf blames this pattern in large part on the "administrative" layout of the budget, with its department by department lists of expenditures, which emphasizes administrative control rather than the political significance of the expenditures. He says, "It is by no means unusual, for example, for exhaustive discussion to be held on the need to establish two new typists' posts, or to acquire an additional ministerial car, while the many millions required for a subsidy programme go through on the nod". He notes that this process yields a large number of amendments to the budget (one indicator of a strong decision-taking committee) but that their individual and even combined economic and political significance may be small. For example, in 1966 eleven hundred amendments to the budget were accepted, but the total amount of expenditure affected by them was 2.1% of the budget.

The Bundestag has frequently added items to the budget which were not contained in the government draft, and the government has accepted these additions. Though in individual cases these changes may have been of some political significance, the total amounts involved in additional expenditure voted by Parliament have usually been insignificant when set against the total volume of the budget. While the committees have expertise available to them, experience to draw upon and many informal contacts with the civil servants in the Ministry, the problem of considering alternatives -- what could have been -- has not been surmounted in the context of general acquiescence by all parties in the Bundestag to the general direction and framework of the budget. Legal and political restraints, along with the sheer size and complexity of the task, seem to have made the budget perhaps inevitably an executive rather than legislative creation, with legislative changes at the margin rather than at the heart of the product.

The extent to which German observers see the committee as relatively weak and outside observers see it as strong is one of the most interesting aspects of this discussion. Though the Bundestag has certainly not replaced the executive as the prime source of budget initiative (and it is not clear that any serious observer would favour such an outcome) its capacity to take decisions, even if at times little-used, suggests possible directions other such committees in parliamentary systems might consider.

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PARLIAMENT AND DELEGATED LEGISLATION

A Background Paper Prepared for the
Canadian Regional Seminar of the
Commonwealth Parliamentary Association
October 15 - 19, 1979

Smirle Forsyth
Assistant Clerk
Legislative Assembly of Ontario

Anyone opening a volume of the statutes will not have to turn many pages before finding that the Governor in Council or the Lieutenant Governor in Council may make regulations which contribute to the substance, detail or working of a particular Act. The result is what we refer to as 'delegated legislation'; a wide term covering every exercise of power to legislate conferred by or under an Act of Parliament or which is given the force of law by virtue of an Act of Parliament.

The power to legislate, when delegated by Parliament, differs from Parliament's own power to legislate. When acting within its constitutional sphere, Parliament is sovereign. It can do the greatest things; it can do the smallest. It can make general laws for a whole country; it can make an exception to them in favour of a particular individual. But any power delegated by Parliament is necessarily a subordinate power because it is limited by the terms of the statute by which it is delegated.

It must be recognized and accepted that the practical demands of modern government cannot be met under a system where no arbitrary or discretionary powers are vested in bodies or persons other than Parliament. The nature of legislation has passed beyond the stage of what may be described as broad principle; it has entered the field of considerable administrative, economic and social detail. Therefore it is inevitable that while a statute should set out the specific requirements to the greatest practicable extent, beyond that there are bound to be a considerable number of matters which relate to further detail which cannot be dealt with by Parliament, unless Parliament itself is to limit itself very severely. A system of delegated legislation is, therefore, both legitimate and constitutionally desirable for certain purposes, within certain limits and under certain circumstances.

One of the principal reasons for delegated legislation is that the sheer volume of legislation and other governmental work is so great that the parliamentary machine is unequal to it. Delegated legislation has been likened to a growing child called upon to relieve the parent of the strain of overwork, and capable of attending to minor matters while the parent manages the main business. It confines the attention of Parliament to material provisions of legislation only and enables Parliament to afford greater time for the consideration of more serious questions involved in legislation affecting the public interest. The truth is that this is probably the only mode in which parliamentary government can, as regards its legislative functions, be satisfactorily carried on if Parliament is to pass the kind and quantity of legislation which modern public opinion requires.

The delegation to the Executive of the freedom to vary the effect of legislation in the face of changing circumstances or in its application to particular fields has freed Parliament from the obligation to subject such proposals to detailed scrutiny. Likewise, it has freed the Executive from the necessity of introducing legislative proposals which would be subject to the full parliamentary process. It may be argued that the greater gain lies with the Executive, but the advantages to Parliament, in terms of facilitating the continuity of administrative action as well as in terms of saving the time of Members, should not be underestimated.

Delegated legislation is, in itself, of public advantage because details can be regulated after a Bill becomes an Act with greater care and minuteness and with better adaptation to local and other special circumstances, than they could

possibly be in the passage of a Bill through Parliament. The practice, further, is valuable because it mitigates the inelasticity which could otherwise make an Act unworkable by providing for a power of constant adaptation to unknown future conditions without the necessity of amending legislation. If these details were to be dealt with by statute or an amending Bill, it may be that they would never be dealt with or that they would not be dealt with until a long time had elapsed; whereas, by regulation, the details are susceptible to modifications as circumstances arise and can be dealt with rapidly.

The method of delegated legislation enables consultation with interests affected by the operation of new Acts to be translated into practice. It also permits experiment and thus affords an opportunity, otherwise difficult to ensure, of utilizing the lessons of experience. In addition, the system permits technical and scientific matters to be dealt with by regulation where the details are so technical as to be unsuitable for parliamentary discussion.

In a modern state, there may be occasions when there is a sudden need for legislative action. For many such needs, delegated legislation is the only convenient or even possible remedy. Where there is time, on legislative issues of great magnitude, it is right and proper that Parliament itself should deal with the matter. However, in times of war or national emergency, it may not only be prudent but vital for Parliament to arm the Executive in advance with almost plenary power to meet occasions of emergency which affect the whole nation. It is the essence of constitutional government, however, that the normal control of Parliament should not be suspended either to a greater degree, or for a longer time, than the exigency demands.

Few would disagree that the contemporary functions of government cannot be discharged without the exercise of delegated powers. No one who looks at a collection of the annual output of delegated legislation can seriously propose that Parliament should cancel the concession of legislative power and undertake, under its own direct authority, all the legislative activities which at present have been left to the cabinet, ministers and other bodies or persons. The real problem is how this legislation can be reconciled with the processes of democratic consultation, scrutiny and control; how a balance can be struck between the desirability of effective parliamentary scrutiny and the Executive's need to exercise the legislative authority delegated to it.

The more fundamental of the criticisms of regulation-making can be summarized as follows: the tendency of Parliament to enact statutes in skeleton form, leaving the details to be filled in at a later date by regulations, such regulations often being the very matters that are of the most importance to the citizen; uncertainty in enabling statutes as to the extent of the area which the regulations are intended to cover; sweeping or subjective terms used in enabling legislation which exclude the judicial control of the regulations made under their authority; the tendency by the draftsmen of statutes to consider as standard clauses sections conferring powers of delegated legislation; lack of public debate and inadequate consultation of all interested parties before the making of regulations; lack of precision in the form and content of the regulations; inadequate publicity given to the regulations after they have been made; lack of procedure for assessing the indirect costs and benefits of regulations on the economy; inadequate parliamentary control over the regulations; and the danger that civil servants, able to exercise delegated powers largely free of political control or direction, may be transformed into the masters of Members.

While each of these criticisms is important, they do not destroy the case for delegated legislation. The essential problem is one of devising the best safeguards to prevent abuse. Because it is a delegated power, Parliament, the delegator, has a continuing responsibility to ensure that the conditions placed upon the exercise of the power are being fulfilled and that safeguards exist to ensure that the power is being exercised legitimately and in the public interest.

The central problem relating to parliamentary review of delegated legislation is the degree to which Parliament should involve itself in attempting to keep directly under satisfactory review all delegated legislation. If Parliament goes too far into the substance of day-to-day regulation, it defeats many of the underlying reasons for delegation in the first place.

For the purpose of ensuring some form of parliamentary control and supervision, parliamentary committees have been established to consider all regulations made to determine whether the special attention of Parliament should be drawn to a regulation. These committees have typically assumed the "watchdog" role over the Executive in its use of the powers conferred by statute. It is settled practice in most jurisdictions that consideration of the policy of the parent Act or of the merits of the regulations is excluded from any committee review. The policy of an Act, having been settled by Parliament after full debate and discussion, ought not to be re-opened for discussion in the committee. The merits of the regulations (i.e. an evaluation of the need for them and their efficacy within the framework of the policy approved and provided for by an Act) are matters for which the Executive is responsible to Parliament.

Over the years, these committees have laid down various informal rules designed to help them in their work and to give guidance to the ministries who produce the delegated legislation. They have been successful for the most part in impressing upon ministries the need for careful and correct drafting of regulations within the particular legislative framework which Parliament has delegated. Perhaps the most important result of the work of scrutiny committees is that their vigilance gives departments of government a lively consciousness that critical eyes are kept upon them.

By its very nature, delegated legislation is not an issue of prime importance in political terms. Far more than primary legislation, it is conceptualized by most parliamentarians as being the Executive's rather than Parliament's business. Unless a Member's constituents are involved or it is seen by the media as an important issue, delegated legislation is an area which Members tend to leave to the handful of their colleagues who take an interest in it. One of the main problems to confront scrutiny committees is that there are few Members who are willing to devote time to the sometimes tedious work of the review of delegated legislation and difficulties exist in recruiting and maintaining Members who might have some knowledge of or interest in the matter.

Although the scrutiny committee is the one successful result of reforms intended to impose some discipline on this form of legislative activity, it has failed to reach its full potential and provides only vestigial parliamentary control over the field.

It is by no means clear that an intensification of parliamentary scrutiny would bring substantial benefits. Within the terms of the general policy on the handling of delegated powers, there seems to be little prospect of improving substantially the degree of control now exercised. The one qualification is that were Parliament to require that draft regulations accompany, where possible, the parent Bill, Members would be able to consider the full implications of the legislation and those individuals affected would be able to scrutinize and comment on the proposed regulations before parliamentary approval is given to the legislation. In this manner, publicity and freedom of discussion are probably the best safeguards against the abuse of delegated powers.

Government and Parliament now operate in conditions which make it impractical and impossible to allow full debate on all delegated legislation and to provide Members with an opportunity to debate and vote on each regulation. Although the existing methods of parliamentary supervision seek to ensure respect for the principles upon which parliamentary government is based, they can work only on the understanding that their application remains limited and highly selective.

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COMMITTEES, PETITIONS AND THE REDRESS OF GRIEVANCES

A Background Paper Prepared for the
Canadian Regional Seminar of the
Commonwealth Parliamentary Association
October 15-19, 1979

Graham White, Ph.D.
Assistant Clerk
Legislative Assembly Of Ontario

COMMITTEES, PETITIONS AND THE REDRESS OF GRIEVANCES

The right of people to bring their grievances directly to Parliament stands as one of the most ancient and most fundamental principles of governments built upon the Westminster model. Traditionally, the most popular form for bringing grievances forward was the direct petition to Parliament. Due to the press of other business and also to the stridently political tone of many mid nineteenth century petitions in Britain, the significance of direct petitioning has declined there and in most other parliamentary systems.

In Canada, petitions are still of course directed to the Commons, but little, if anything actually happens once they are presented. Similarly, in most Canadian provinces, no provision is made for parliamentary response to petitions, save the common rule that petitions complaining of an urgent personal grievance requiring an immediate remedy may be discussed immediately; this virtually never happens. In Prince Edward Island, a Member may move to refer a petition to a Standing Select Committee, but this procedure is only rarely employed. The Standing Orders of the Ontario Legislature require that the Ministry respond to petitions within two weeks, but this invariably involves little more than a statement of government policy. One of the objects of this paper is to demonstrate that in some jurisdictions, petitioning procedures do remain an effective method for the redress of grievances; for the most part, committees are central to this process.

Several other avenues are of course available for parliamentary redress of grievances, some of which involve committees, some of which do not. Members of Parliament who receive complaints from their constituents may raise the matter by way of a question in the House, private members' bill or other means, alternately they may bring the problem to the Minister's or department's attention informally. In many jurisdictions, frequent recourse is had by Members to the ancient right to air grievances before granting supply; certainly in Ottawa and several provinces, constituent grievances are often aired in committees considering estimates. Interestingly, Members of the Diet of Japan employ a similar opportunity to raise grievances in sessions of their Budget committee.

The establishment of an Ombudsman (or a Human Rights Commissioner or Language Commissioner) creates a whole new mechanism for the redress of grievances, and Parliament typically maintains a close involvement with this process. In most jurisdictions, the Ombudsman is formally empowered as a servant of Parliament rather than of the Government, so that in many respects an Ombudsman represents a parliamentary response to grievances raised by petitioners. Yet if in this very important sense, the Ombudsman is an extension of Parliament, dealing with many more grievances than could the Members themselves, in the public mind the Ombudsman is only dimly linked with Parliament. This despite the fact that oftentimes a parliamentary committee on the Ombudsman is a key element in guiding his approach to problems or in endorsing his decisions and giving effect to them, and that in some jurisdictions, such as Great Britain, the Ombudsman may not investigate a case without a request from an MP.

Even in a system blessed with an effective, high-profile Ombudsman, however, the need for the public to have direct access to their elected representatives, via petitions or other means, remains undiminished. In that the Ombudsman is usually perceived as an alternative to Parliament, it is reassuring

for people to know that they can turn to their Members for assistance in confronting their problems. Furthermore, since an Ombudsman must assume a non-partisan stance, he does not have the same scope for rectifying problems that a Member has; for example, if policies are administered fairly, the Ombudsman will not likely push for overturning the policy itself, as the elected Member often will. Thus, without for a moment discounting the essential service rendered by Ombudsmen in working for the redress of citizen grievances, this paper concentrates on petitioning and petition committees in Britain, India, New Zealand, and the Isle of Man.

Although our purpose is the study of petitions for the redress of grievances, it is neither realistic nor advisable to separate these from petitions dealing with more general issue of public policy, for the dividing line is all impossible to establish.

This review is entirely confined to legislatures within the Westminster model, and as such certain fundamental principles must be recognized. No petition praying for the expenditure of public funds will normally be received unless accompanied by a recommendation from the Crown, which is of course little more than a theoretical possibility. More significantly, the practice of petitioning, and the efficiency of petitions - whether endorsed by committees or not - must be understood within the context of cabinet government and the political realities of government versus opposition. Save in highly unusual circumstances, Parliament cannot force the Government to act upon a petition if it is unwilling to do so. In the Congressional system policy initiatives, or at least referenda on policy questions, may be imposed upon the administration by petitions, but modern Parliamentary government holds no such prospects. Finally, although many of the forms and rituals surrounding the petitioning process (form of address and the like) are of no great significance, the fact that petitions are brought to Parliament's attention through the actions of individual Members is surely a fact of considerable import.

Great Britain

For hundreds of years, petitioning was of absolutely fundamental importance in the development of British parliamentary democracy. The entire procedure for private and public bills evolved from the practice of petitions, and petitions early became a potent force for bringing the weight of public opinion to bear in Parliament. In 1669 a House of Commons resolution recognized

That it is the inherent right of every commoner in England to prepare and present petitions to the House of Commons in case of grievance, and the House of Commons to receive the same.

The great flood of petitions in the early decades of the 1840's led to wholesale rule changes which greatly undermined the influence of petitions. The formal procedures for petitions and their political significance changed very little from this time until 1974. Not surprisingly, the number of petitions dropped markedly over the years.

Prior to 1974, a petition would be presented to the House by an MP; no debate would be permitted except on a petition dealing with a "present personal grievance" (this was extremely rare), but it could be read by the Clerk of the House and then tabled. It would then be directed to the Public Petitions Committee, which was only empowered to check the number of original signatures, and to provide synopses of all petitions, and to deliver both to the House. No further action was taken on petitions. Reference of petitions to this committee was

thus a hollow exercise and in 1973 the Members of the Committee recommended that the Committee be done away with if its powers were not to be strengthened. The Committee was accordingly abolished, and the rules governing petitions simplified.

The current procedure is for all petitions to be examined by the Clerk of Public Petitions, so as to establish that they meet the requirements set out in the Standing Orders, and then published in full as an addendum to the Votes and Proceedings. Thus the substance of current petitions is available daily to the Members. The standing orders now stipulate that the Clerk of the House transmit all petitions to the appropriate Minister, and to print and present to the House any comments made by the Minister in response. Approximately 70 per cent of petitions receive a Ministerial reply, but no formal requirement for reply exists. Printing of petitions and responses increases the likelihood that Members will be aware of the topics raised by the petitions, but the relegation of the time for the presentation of petitions to the conclusion of public business at day's end has made for even less direct parliamentary attention to petitions.

Despite these changes and despite the overall lack of efficacy of petitioning Parliament, however, the public remains of the opinion that petitions directed to Parliament will have some impact on public policy or on the redress of individual grievances. On occasion a petition - either setting out one person's grievance, or representing the wishes of massive numbers of signees - may effect the desired results, but this reflects the political realities and the intrinsic merits of the petitions rather than any parliamentary impetus towards achieving the petition's ends.

New Zealand

Citizens of New Zealand who have grievances may bring them to their Member of Parliament, the Ombudsman or the Minister of the government department involved. They may also petition Parliament directly and have their case heard by a Parliamentary committee.

Petitions may be received from individuals or groups, but in the case of individual petitioners all legal remedies, including application to the Ombudsman if the subject-matter falls under his jurisdiction, must be exhausted before the House will consider the petition. The number of petitions received from individuals has declined sharply since the establishment of the Ombudsman. Many group petitions are not strictly speaking directed so much towards the redress of grievances as to particular policy stances adopted by the government. For example, a number of petitions in recent years have been aimed at repealing New Zealand's abortion legislation.

Some petitions, depending on their subject matter, may be referred to certain specialist committees but most go the Petitions Committee itself, which meets weekly throughout the session.

The petitioner appears personally before the Committee to present his case; representatives of the government department involved are also present to put forward the department's official response to the petition. The atmosphere in the committee meeting is fairly formal and court-like. Except in the case of petitions with an obvious party bent, the partisanship of the committee members is relatively muted.

Following its deliberation on the petition, the committee reports to the House. The Committee may report that it has no recommendation; in a recent about a third of all petitions were so reported. Should the Committee report that the petition warrants consideration, it may add that the petition deserves "favourable consideration" or "most favourable consideration". About 1 petition in 8 receives "most favourable" consideration, according to a recent study.

After the Committee report is tabled in the House it is sent to the appropriate government departments, which comment upon the petition and the Committee report. The responsible minister then submits the case to a cabinet subcommittee on petitions. The subcommittee considers the petition and in a limited number of cases may accept the petitioner's arguments and grant some form of redress. In nearly half of the petitions reported most favourably by the Committee, the cabinet has agreed to redress the petitioner's grievance.

The petitions process serves as an important alternative to the Ombudsman, and a last mode of appeal for many citizens. Although only a small proportion of the petitions presented to the House result in positive action as desired by the petitioner, the procedure is extremely important for the way in which it gives ordinary citizens with ordinary concerns direct access to Parliament. One observer has noted that "petitioners have expressed the opinion that while they knew their petition was unlikely to be granted, they felt much better because this distinguished group of Parliamentarians had taken the time to hear them out".

India

The use of committees for the redress of grievances has long been a feature of the Indian Lower House, the Lok Sabha. Two committees are of particular interest for our purposes: the Committee on Petitions and the Committee on Government Assurances.

Petitioning of Parliament in India represents a continuation of the age-old right to petition the King or the ruler of a state. Petitions are generally accepted on individual grievances or on any matter of general public interest provided it is not a matter for judicial determination or a matter for legal remedies are available. Petitions praying for the grant of money by Bill are, unlike at Westminster, in order.

All petitions stand referred to the Committee on Petitions, though petitions relating to specific bills are sent to the committee considering the bill. Depending on the merits of the petition and the degree to which the matter is of general impact, the committee may simply, after due deliberation, forward the problem to the appropriate Ministry, it may direct that the petition be circulated to all Members of the House, or it may, via direct report to the House, call for redress of specific grievances or for more general remedial action.

Again depending on the specifics of the case at hand, the committee may call for an official government response, it may entertain briefs and other representations and it may examine witnesses at its sittings, which are held in camera.

The Committees recommendations are not binding upon the Government, but particularly in those cases in which the Committee strongly endorses the petitioners claims or views, its reports are considered seriously. One reason for the Committee's success in this regard is its policy of following up on earlier recommendations, one aspect of which is the report by the Committee to the House on the Government's response (or its inactivity).

By no means are the committee's recommendations always followed, but its record is substantial in terms of the redress of individual or group grievances in matters such as pensions. More generally, as S.L. Shakdher has commented in his book on the Indian Parliament, the Government has "taken many a step on matters of public importance on petitions submitted to parliament by individuals, which they (the Government) would have perhaps not taken but for the Committee's intervention".

The Committee on Government Assurances represents an important Indian contribution to parliamentary procedure. This Committee is responsible for ascertaining whether the thousands of undertakings and promises made annually by Ministers to the Lok Sabha are indeed fulfilled or acted upon within certain time limits. Among the wide range of topics reviewed by the Committee are individual and group grievances; thus this Committee reports on delays in responding to grievances as well as on deficiencies in action taken. In addition to Ministers, civil servants are also held accountable to the Committee. The Committee on Government Assurances has been successful on two fronts. First, it has forced the administration to be more aware of its responsibilities to Parliament; in this important sense, the Committee serves as a vehicle for the redress of Members' grievances. Secondly, the Committee has achieved a substantial degree of popularity as individuals and organizations increasingly approach it for redressing grievances stemming from the non-fulfillment of promises and undertakings given in the House.

Isle of Man

Unquestionably the most unusual - and colourful - petitioning procedures are those followed in the Isle of Man. The Isle of Man is a semi-autonomous British possession in the Irish Sea which this year marked the 1,000th anniversary of its Parliament - the Tynwald.

Each July the two branches of the Manx Parliament, the appointed Executive Council and the elected House of Keys, meet in an open air session on Tynwald Hill. Included in this session are the public proclamation of new laws and the receipt of petitions. The petitions are presented by the petitioner in person to the Lord of Man or to her representative, the Lieutenant-Governor. This represents a unique form of public access to Parliamentary attention. The petition is then referred by Standing Order to Committee for consideration and report. Thus, although the formal rules are not such as to guarantee concrete government action in response to petitions, the dramatic setting in which they are presented before the assembled Tynwald grants them powerful political force.

Conclusion

Petitioners and Members alike recognize that petitions are chiefly useful in drawing attention - public and governmental - to certain problems, and in registering the weight of popular opinion behind particular views or complaints. Thus the fact that Parliament, in Canada at least, rarely follows up on petitions is of less consequence than might first appear. Nonetheless this paper has demonstrated that, through the mechanism of petitions committees, Parliament can revive its ancient role as a forum for the discussion and evaluation of public petitions. It would further seem that this can be an effective and important channel between Parliament and the people. Aside from this fairly obvious conclusion, the most interesting point to emerge from our cursory review relates to the size factor. Committee consideration of petitions, it might have been surmised, is only practical in relatively small jurisdictions such as the Isle of Man or New Zealand (whose population does not much exceed that of British Columbia); the Indian experience, however, gives the lie to any such supposition. If a country with a populace in the hundreds of millions can find the will and the means to devote serious parliamentary attention to petitions, surely other, far smaller jurisdictions could do likewise.

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Prepared for the
Canadian Regional Seminar of the
Commonwealth Parliamentary Association
October 15-19, 1979.

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Above, right to left; Hon. John E. Stokes, Speaker of the Legislative Assembly of Ontario; Hon. Herr Dietrich Stobbe, President of the Bundesrat and Governing Mayor of Berlin, Federal Republic of Germany; and Hon. Richard Hatfield, Premier of New Brunswick.

Below, the host of the Seminar, Hon. John E. Stokes; on his right, Hon. Ada May Panepa Edwards, Speaker, House of Assembly, St. Kitts-Nevis-Anguilla; and on his left, Hon. C.C. Fitih, Head of the delegation from the Parliament of Ghana.





Above, Hon. Robert Welch,
Deputy Premier and Minister
of Energy of Ontario speaking
to seminar delegates
(Amethyst Room).

Right, Hon. Allister Grosart,
Speaker of the Senate for the
31st Parliament, guest
speaker at a dinner hosted by
Hon. John E. Stokes, Speaker
of the Legislative Assembly
of Ontario.





Above, right to left, Mr. Stuart Smith, Leader of Liberal Party of Ontario; Mr. J.R. Comtois, M.P. (Ottawa); Mr. Claude Forget, M.N.A. (Quebec); Hon. Kwaku Baah (Ghana); and Mr. Albert Roy, M.P.P. (Ontario).

Below, Premier Richard Hatfield of New Brunswick with, on his left, Hon. C.C. Fitih and on the other side Hon. Peter Adjetey, both Parliamentarians from Ghana.





Above, Mr. Robert Nixon, M.P.P., Opposition House Leader, (Ontario) conversing with two seminar participants

Below, left to right, at Ontario Place, Rev. Roy Robinson, Deputy Speaker of the House of Representatives of Jamaica; and Mr. Oswald Murray, Consul General for Jamaica.





Above, left to right, Mr. Bennett Campbell, Opposition Leader, Prince Edward Island, with a Ghana Member of Parliament, Hon. Kwaku Baah.

Below, Hon. Mrs. Elizabeth Kusi-Aidoo and Hon. Prince William Andani, both Members of Parliament from Ghana.





Above, delegates and observers at a seminar meeting in the Amethyst Room of the Legislative Assembly of Ontario.

Below, left to right, Mr. L.R. (Duke) MacTavish, Counsel to the Statutory Committee of Ontario; and Dr. Henry Muggah, Chief Clerk of the House of Assembly of Nova Scotia.





Above, delegates and observers at a seminar meeting (Amethyst Room).

Below, at Ontario Place. Foreground, Dr. James Boren, President of the International Association of Professional Bureaucrats, U.S.A., with Mrs. Boren and Hon. Kwaku Baah, of Ghana.



Photos: Michael O'Neill, Legislative Assembly, Ontario.



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